



Reprinted  
April 10, 2007

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## ENGROSSED SENATE BILL No. 328

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DIGEST OF SB 328 (Updated April 9, 2007 11:05 pm - DI 107)

**Citations Affected:** IC 10-13; IC 12-19; IC 31-9; IC 31-19; IC 31-25; IC 31-27; IC 31-32; IC 31-33; IC 31-34; IC 31-37; noncode.

**Synopsis:** Department of child services. Requires the director of the department of child services (department) to appoint a county director for each county office of family and children. (Current law requires the director of the division of family resources to make the appointments in consultation with the director of the department.) Specifies that national criminal history checks shall be conducted in compliance with federal law to determine whether certain individuals who supervise children have been convicted of specified offenses. Modifies the definition of "custodian", for purposes of statutes regarding children in need of services (CHINS), to include a person who is a member of the household of a child's noncustodial parent. Requires criminal history  
(Continued next page)

**Effective:** Upon passage; July 1, 2007.

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**Lawson C, Sipes, Breaux**

(HOUSE SPONSORS — WELCH, BELL, GOODIN)

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January 16, 2007, read first time and referred to Committee on Judiciary.  
February 15, 2007, amended, reported favorably — Do Pass.  
February 20, 2007, read second time, amended, ordered engrossed.  
February 21, 2007, engrossed.  
February 22, 2007, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 27, 2007, read first time and referred to Committee on Family, Children and Human Affairs.  
April 5, 2007, amended, reported — Do Pass.  
April 9, 2007, read second time, amended, ordered engrossed.

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checks in pre-adoption placements, even if the child is: (1) not a ward of the court or the department; or (2) placed with certain relatives. Adds domestic battery to the list of crimes requiring the denial of a foster family home license or the adoption of a child. Provides that the department shall establish at least three citizen review panels including that one panel must be: (1) a community child protection team; (2) a statewide or local child fatality review team; and (3) a foster care advisory panel. Requires a citizen review panel to: (1) consist of volunteer members who broadly represent the community; (2) examine policies and procedures of child welfare agencies and specific cases when appropriate; (3) meet at least one time every three months; and (4) prepare an annual report. Requires the department to submit a response to a citizen review panel's report not more than six months after the date the department receives the report. Prohibits a member of a citizen review panel from disclosing identifying information about a specific child services case, child or member of the child's family who is the subject of a child protective services investigation, or any other person identified in confidential materials. Provides that the department may remove a member who discloses identifying information from a citizen review panel. Requires child welfare agencies to cooperate and work with citizen review panels. Allows citizen review panels access to reports and other materials concerning child protective services. Provides that a petition alleging that a child taken into custody is a CHINS shall be filed within 5 days after the detention hearing. Establishes a child protection index, and permits a person or agency to obtain certain information contained in the index relating to an individual who has applied for employment or volunteered for services in a capacity that would place the individual in a position of trust with children. Specifies that national criminal history checks shall be conducted in compliance with federal law to determine whether certain individuals who supervise children have been convicted of specified offenses. Requires a court to consult with a CHINS regarding a proposed permanency plan for the child. Provides that if the child is at least 16 years of age and the proposed permanency plan for the child provides for the transition from foster care to independent living, the court shall notify the child of the permanency hearing and provide the child an opportunity to be heard. Repeals provisions: (1) requiring the department to offer certain services to a family or a child following an investigation of a report of child abuse or neglect; and (2) authorizing voluntary services referral agreements between the department and persons accused of child abuse or neglect. Provides that the right of notice and the opportunity to be heard applies to all court proceedings in CHINS and delinquency cases. Makes conforming amendments.

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Reprinted  
April 10, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 328

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 10-13-3-27.5, AS AMENDED BY P.L.146-2006,  
2       SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2007]: Sec. 27.5. (a) If:  
4             (1) exigent circumstances require the emergency placement of a  
5             child; and  
6             (2) the department will be unable to obtain criminal history  
7             information from the Interstate Identification Index before the  
8             emergency placement is scheduled to occur;  
9       upon request of the department of child services established by  
10       IC 31-25-1-1, a caseworker, or a juvenile probation officer, the  
11       department may conduct a national name based criminal history record  
12       check of each individual **who is at least eighteen (18) years of age**  
13       **and** who is currently residing in the location designated as the  
14       out-of-home placement at the time the child will reside in the location.  
15       The department shall promptly transmit a copy of the report it receives

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from the Interstate Identification Index to the agency or person that submitted a request under this section.

(b) Not later than seventy-two (72) hours after the department of child services, the caseworker, or the juvenile probation officer receives the results of the national name based criminal history record check, the department of child services, the caseworker, or the juvenile probation officer shall provide the department with a complete set of fingerprints for each individual **who is at least eighteen (18) years of age and** who is currently residing in the location designated as the out-of-home placement at the time the child will be placed in the location. The department shall:

(1) use fingerprint identification to positively identify each individual ~~who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location;~~ **whose fingerprints are provided to the department under this subsection;** or

(2) submit the fingerprints to the Federal Bureau of Investigation not later than fifteen (15) calendar days after the date on which the national name based criminal history record check was conducted.

The child shall be removed from the location designated as the out-of-home placement if an individual **who is at least eighteen (18) years of age and** who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location fails to provide a complete set of fingerprints to the department of child services, the caseworker, or the juvenile probation officer.

(c) The department and the person or agency that provided fingerprints shall comply with all requirements of 42 U.S.C. 5119a and any other applicable federal law or regulation regarding:

(1) notification to the subject of the check; and

(2) the use of the results obtained based on the check of the person's fingerprints.

(d) If an out-of-home placement is denied as the result of a national name based criminal history record check, an individual who is ~~currently residing in the location designated as the out-of-home placement at the time the child will reside in the location~~ **the subject of the name based criminal history record check** may contest the denial by submitting to the department of child services, the caseworker, or the juvenile probation officer:

(1) a complete set of the individual's fingerprints; and

(2) written authorization permitting the department of child services, the caseworker, or the juvenile probation officer to

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forward the fingerprints to the department for submission to the  
Federal Bureau of Investigation;  
not later than five (5) days after the out-of-home placement is denied.

(e) The:

(1) department; and

(2) Federal Bureau of Investigation;

may charge a reasonable fee for processing a national name based  
criminal history record check. The department shall adopt rules under  
IC 4-22-2 to establish a reasonable fee for processing a national name  
based criminal history record check and for collecting fees owed under  
this subsection.

(f) The:

(1) department of child services, for an out-of-home placement  
arranged by a caseworker or the department of child services; or

(2) juvenile court, for an out-of-home placement ordered by the  
juvenile court;

shall pay the fee described in subsection (e), arrange for fingerprinting,  
and pay the costs of fingerprinting, if any.

SECTION 2. IC 10-13-3-39, AS AMENDED BY P.L.234-2005,  
SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
JULY 1, 2007]: Sec. 39. (a) The department is designated as the  
authorized agency to receive requests for, process, and disseminate the  
results of national criminal history background checks that comply with  
this section and 42 U.S.C. 5119a.

(b) A qualified entity may contact the department to request a  
national criminal history background check on any of the following  
persons:

(1) A person who seeks to be or is employed with the qualified  
entity. A request under this subdivision must be made not later  
than three (3) months after the person is initially employed by the  
qualified entity.

(2) A person who seeks to volunteer or is a volunteer with the  
qualified entity. A request under this subdivision must be made  
not later than three (3) months after the person initially volunteers  
with the qualified entity.

**(3) A person for whom a national criminal history  
background check is required under any law relating to the  
licensing of a home, center, or other facility for purposes of  
day care or residential care of children.**

**(4) A person for whom a national criminal history  
background check is required for purposes of placement of a  
child in a foster family home, a prospective adoptive home, or**

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**the home of a relative or other caretaker, or for purposes of a report concerning an adoption as required by IC 31-19-8.**

(c) A qualified entity must submit a request under subsection (b) in the form required by the department and provide a set of the person's fingerprints and any required fees with the request.

(d) If a qualified entity makes a request in conformity with subsection (b), the department shall submit the set of fingerprints provided with the request to the Federal Bureau of Investigation for a national criminal history background check. ~~for convictions described in IC 20-26-5-11.~~ The department shall respond to the request in conformity with:

(1) the requirements of 42 U.S.C. 5119a; and

(2) the regulations prescribed by the Attorney General of the United States under 42 U.S.C. 5119a.

(e) This subsection applies to a qualified entity that ~~(1)~~ is not a school corporation or a special education cooperative, or ~~that (2)~~ is a school corporation or a special education cooperative and seeks a national criminal history background check for a volunteer. After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall make a determination whether the ~~applicant~~ **person who is the subject of a request** has been convicted of:

(1) an offense described in IC 20-26-5-11;

**(2) in the case of a foster family home, an offense described in IC 31-27-4-13(a);**

**(3) in the case of a prospective adoptive home, an offense described in IC 31-19-11-1(c);**

**(4) any other felony; or**

**(5) any misdemeanor;**

and convey the determination to the requesting qualified entity.

(f) This subsection applies to a qualified entity that:

(1) is a school corporation or a special education cooperative; and

(2) seeks a national criminal history background check to determine whether to employ or continue the employment of a certificated employee or a noncertificated employee of a school corporation or an equivalent position with a special education cooperative.

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department may exchange identification records concerning convictions for offenses described in IC 20-26-5-11 with the school corporation or special education cooperative solely for purposes of making an employment

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determination. The exchange may be made only for the official use of the officials with authority to make the employment determination. The exchange is subject to the restrictions on dissemination imposed under P.L.92-544, (86 Stat. 1115) (1972).

(g) This subsection applies to a qualified entity (as defined in IC 10-13-3-16) that is a public agency under IC 5-14-1.5-2(a)(1). After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall provide a copy to the public agency. Except as permitted by federal law, the public agency may not share the information contained in the national criminal history background check with a private agency.

SECTION 3. IC 12-19-1-2, AS AMENDED BY P.L.234-2005, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The ~~director of the division, in consultation with the~~ director of the department of child services shall appoint a county director in each county.

(b) The director **of the department of child services** shall appoint each county director:

- (1) solely on the basis of merit; and
- (2) from eligible lists established by the state personnel department.

(c) Each county director must be a citizen of the United States.

SECTION 4. IC 31-9-2-16.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16.5. "Child care provider", for purposes of ~~IC 31-33-17~~, **IC 31-33-26**, has the meaning set forth in ~~IC 31-33-17-0.5~~. **IC 31-33-26-1**.

SECTION 5. IC 31-9-2-19.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19.3. "Child welfare agency", for purposes of **IC 31-25-2-20.4**, means:

- (1) the department of child services; and
- (2) a person (as defined in IC 24-4-14-5) that, directly or indirectly, provides:

(A) services to a child or family of a child, for which payment is made, in whole or in part, by the department of child services or a local office of the department of child services;

(B) services to:

- (i) a child who is; or
- (ii) a family with;

a child at imminent risk of placement (as defined in IC 31-26-5-1) who is referred by the department of child

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services or a local office of the department of child services to the person for family support or family preservation services; or

(C) assistance to or works in cooperation with the department of child services in the investigations of allegations of possible child abuse or neglect in accordance with IC 31-33.

SECTION 6. IC 31-9-2-22.5, AS AMENDED BY P.L.145-2006, SECTION 183, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22.5. "Conduct a criminal history check", for purposes of IC 31-19, IC 31-26, IC 31-27, IC 31-33, IC 31-34, IC 31-37, and IC 31-39-2-13.5, means to:

(1) request the state police department to:

(A) release or allow inspection of a limited criminal history (as defined in IC 10-13-3-11) and juvenile history data (as defined in IC 10-13-4-4) concerning a person who is **at least fourteen (14) years of age and who is:**

(i) for purposes of IC 31-19, IC 31-26, IC 31-33, IC 31-34, **and IC 31-37, and IC 31-38-2-13.5;** currently residing in a location designated by the department of child services or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location; or

(ii) for purposes of ~~IC 31-27~~, an applicant; or if the applicant is an organization, the director or a manager of a facility where children will be placed; an employee; or a volunteer who has or will have direct contact, on a regular and continuing basis, with children who are under the direct supervision of a person required to be licensed under ~~IC 31-27~~; and

(ii) for purposes of IC 31-27-4-5, a resident of the applicant's household who is at least fourteen (14) years of age; and

(B) conduct a:

(i) ~~national~~ fingerprint based criminal history background check **of both national and state records data bases concerning a person who is at least eighteen (18) years of age** in accordance with **IC 10-13-3-27 and IC 10-13-3-39;** or

(ii) national name based criminal history record check (as defined in IC 10-13-3-12.5) of a person **who is at least eighteen (18) years of age** as described in clause (A) as provided by IC 10-13-3-27.5; and

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(2) collect each substantiated report of child abuse or neglect reported in a jurisdiction where a probation officer, a caseworker, or the department of child services has reason to believe that a person described in subdivision (1)(A), **or a person for whom a fingerprint based criminal history background check is required under IC 31**, resided within the previous five (5) years; and

**(3) request information concerning any substantiated report of child abuse or neglect relating to a person described in subdivision (1)(A) that is contained in a national registry of substantiated cases of child abuse or neglect that is established and maintained by the United States Department of Health and Human Services, to the extent that the information is accessible pursuant to 42 U.S.C. 16990 and any applicable regulations or policies of the Department of Health and Human Services.**

SECTION 7. IC 31-9-2-26, AS AMENDED BY P.L.145-2006, SECTION 184, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. "County office" **or "county office of family and children"**, for purposes of ~~IC 31-25 through IC 31-40~~ **IC 31** and the juvenile law, refers to a county office of family and children; **the department of child services established by IC 31-25-1-1.**

SECTION 8. IC 31-9-2-31, AS AMENDED BY P.L.146-2006, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 31. (a) "Custodian", for purposes of the juvenile law, means a person with whom a child resides.

(b) "Custodian", for purposes of IC 31-34-1, includes any person who is:

(1) a license applicant or licensee of:

(A) a foster home or residential child care facility that is required to be licensed or is licensed under IC 31-27;

(B) a child care center that is required to be licensed or is licensed under IC 12-17.2-4; or

(C) a child care home that is required to be licensed or is licensed under IC 12-17.2-5; ~~or~~

(2) a person who is responsible for care, supervision, or welfare of children while providing services as an employee or volunteer at:

(A) a home, center, or facility described in subdivision (1); or

(B) a school, as defined in IC 31-9-2-113.5; **or**

**(3) a member of the household of the child's noncustodial**

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SECTION 9. IC 31-9-2-38.5, AS AMENDED BY P.L.145-2006, SECTION 187, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 38.5. "Department", for purposes of IC 31-19, ~~IC 31-25, IC 31-26, IC 31-27, IC 31-28, IC 31-33, IC 31-34, IC 31-38;~~ and **IC 31-25 through IC 31-40**, has the meaning set forth in IC 31-25-2-1.

SECTION 10. IC 31-9-2-58.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 58.3. "Index", for purposes of IC 31-33-26, means the child protection index established under IC 31-33-26-2.**

SECTION 11. IC 31-9-2-106, AS AMENDED BY P.L.145-2006, SECTION 211, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 106. ~~(a)~~ "Registry", for purposes of IC 31-19-5, refers to the putative father registry established by IC 31-19-5-2.

~~(b) "Registry", for purposes of IC 31-33, refers to the child abuse registry established by the department under IC 31-33-17.~~

SECTION 12. IC 31-19-7-1, AS AMENDED BY P.L.145-2006, SECTION 247, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) ~~Except:~~

(1) for:

(A) a child sought to be adopted by a stepparent;

(B) a child sought to be adopted by a grandparent; an aunt; or an uncle; or

(C) a child received by the petitioner for adoption from an agency outside Indiana with the written consent of the department; or

(2) if the court in its discretion, after a hearing held upon proper notice, has waived the requirement for prior written approval;

A child may not be placed in a proposed adoptive home without the prior written approval of a licensed child placing agency or county office of family and children approved for that purpose by the department.

(b) Except as provided in subsection (d), before giving prior written approval for placement in a proposed adoptive home of a child, ~~who is under the care and supervision of:~~

(1) the juvenile court; or

(2) the department of child services;

a licensed child placing agency or the department of child services shall conduct a criminal history check (as defined in IC 31-9-2-22.5)

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concerning the proposed adoptive parent and any other person who is currently residing in the proposed adoptive home.

(c) The prospective adoptive parent shall pay the fees and other costs of the criminal history check required under this section.

(d) A licensed child placing agency or the department of child services is not required to conduct a criminal history check (as defined in IC 31-9-2-22.5) if a prospective adoptive parent provides the licensed child placing agency or county office of family and children with the results of a criminal history check conducted:

(1) in accordance with IC 31-9-2-22.5; and

(2) not more than one (1) year before the date on which the licensed child placing agency or county office of family and children provides written approval for the placement.

SECTION 13. IC 31-19-11-1, AS AMENDED BY P.L.140-2006, SECTION 17, AS AMENDED BY P.L.173-2006, SECTION 17, AND AS AMENDED BY P.L.145-2006, SECTION 253, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Whenever the court has heard the evidence and finds that:

(1) the adoption requested is in the best interest of the child;

(2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;

(3) the report of the investigation and recommendation under IC 31-19-8-5 has been filed;

(4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father registry in accordance with IC 31-19-5;

(5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;

(6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:

(A) IC 31-19-6 indicating whether a record of a paternity determination; or

(B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;

has been filed in relation to the child;

(7) proper consent, if consent is necessary, to the adoption has been given;

(8) the petitioner for adoption is not prohibited from adopting the

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child as the result of an inappropriate criminal history described in subsection (c) or (d); and

(9) the person, licensed child placing agency, or county office of family and children that has placed the child for adoption has provided the documents and other information required under IC 31-19-17 to the prospective adoptive parents;

the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the ~~department's~~ *state department of health's* affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health and safety of a child by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies described as follows:

(1) Murder (IC 35-42-1-1).

(2) Causing suicide (IC 35-42-1-2).

(3) Assisting suicide (IC 35-42-1-2.5).

(4) Voluntary manslaughter (IC 35-42-1-3).

(5) Reckless homicide (IC 35-42-1-5).

(6) Battery as a felony (IC 35-42-2-1).

**(7) Domestic battery (IC 35-42-2-1.3).**

~~(7)~~ **(8)** Aggravated battery (IC 35-42-2-1.5).

~~(8)~~ **(9)** Kidnapping (IC 35-42-3-2).

~~(9)~~ **(10)** Criminal confinement (IC 35-42-3-3).

~~(10)~~ **(11)** A felony sex offense under IC 35-42-4.

~~(11)~~ **(12)** Carjacking (IC 35-42-5-2).

~~(12)~~ **(13)** Arson (IC 35-43-1-1).

~~(13)~~ **(14)** Incest (IC 35-46-1-3).

~~(14)~~ **(15)** Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).

~~(15)~~ **(16)** Child selling (IC 35-46-1-4(d)).

~~(16)~~ **(17)** A felony involving a weapon under IC 35-47 or IC 35-47.5.

~~(17)~~ **(18)** A felony relating to controlled substances under IC 35-48-4.

~~(18)~~ **(19)** An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.

~~(19)~~ **(20)** A felony that is substantially equivalent to a felony listed in subdivisions (1) through ~~(18)~~ **(19)** for which the conviction was entered in another state.

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1 However, the court is not prohibited from granting an adoption based  
 2 upon a felony conviction under subdivision (6), ~~(11)~~, (12), (13), ~~(16)~~,  
 3 ~~or~~ (17), or (18), or its equivalent under subdivision ~~(19)~~, (20), if the  
 4 offense was not committed within the immediately preceding five (5)  
 5 year period.

6 (d) A court may not grant an adoption if the petitioner is ~~an~~ a sex  
 7 offender (as defined in ~~IC 5-2-12-4~~; IC 11-8-8-5).

8 SECTION 14. IC 31-25-2-20.4 IS ADDED TO THE INDIANA  
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 10 [EFFECTIVE JULY 1, 2007]: **Sec. 20.4. (a) The department shall**  
 11 **establish at least three (3) citizen review panels in accordance with**  
 12 **the requirements of the federal Child Abuse Prevention and**  
 13 **Treatment Act under 42 U.S.C. 5106a.**

14 (b) A citizen review panel consists of volunteer members who  
 15 broadly represent the community in which the panel is established,  
 16 including members who have expertise in the prevention and  
 17 treatment of child abuse and neglect.

18 (c) The department shall appoint the citizen review panels in the  
 19 following manner:

20 (1) One (1) panel must be a community child protection team  
 21 established in a county under IC 31-33-3-1, selected by the  
 22 director of the department with the consent of the team.

23 (2) One (1) panel must be either:

24 (A) the statewide child fatality review committee  
 25 established under IC 31-33-25-6; or

26 (B) a local child fatality review team established under  
 27 IC 31-33-24-6;

28 selected by the director of the department with the consent of  
 29 the committee or team.

30 (3) One (1) panel must be a foster care advisory panel  
 31 consisting of at least five (5) and not more than eleven (11)  
 32 members, selected to the extent feasible from the membership  
 33 of any foster care advisory group previously established or  
 34 recognized by the department. If the panel consists of seven  
 35 (7) or fewer members, the panel must include at least one (1)  
 36 foster parent licensed by the department through a county  
 37 office and one (1) foster parent licensed by the department  
 38 through a child placing agency licensed under IC 31-27-6. If  
 39 the panel consists of more than seven (7) members, the panel  
 40 must include two (2) foster parents licensed by the  
 41 department through a county office and two (2) foster parents  
 42 licensed by the department through a child placing agency

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1 licensed under IC 31-27-6. Additional members of the panel  
 2 must include one (1) or more individuals who are employed by  
 3 a child placing agency licensed under IC 31-27-6 and who  
 4 provide services to foster families and children placed by the  
 5 department in out-of-home placements, and may include  
 6 other representatives of child welfare service providers or  
 7 persons who provide training to current or prospective foster  
 8 parents. All members of this panel must be individuals who  
 9 are not employees of the department.

10 (4) The membership of any additional citizen review panels  
 11 established under this section shall be determined by the  
 12 director of the department, consistent with the guidelines for  
 13 panel membership stated in subsection (b) and the purposes  
 14 and functions of the panels as described in this section.

15 (5) Each citizen review panel shall be appointed for a term of  
 16 three (3) years beginning July 1, 2007. Upon expiration of the  
 17 term of the panel described in subdivision (1), the director of  
 18 the department shall select a community child protection  
 19 team established in a different county for the succeeding term.  
 20 Upon expiration of the term of the panel described in  
 21 subdivision (2), the director of the department shall select a  
 22 different fatality review team, or committee, if available, for  
 23 the succeeding term. Panels appointed under subdivision (3)  
 24 or (4) may be reappointed for successive terms, in the  
 25 discretion of the director of the department. The director may  
 26 appoint individuals as needed to fill vacancies that occur  
 27 during the term of any panel appointed under subdivision (3)  
 28 or (4).

29 (d) A citizen review panel shall evaluate the extent to which a  
 30 child welfare agency is effectively discharging the agency's child  
 31 protection responsibilities by examining:

- 32 (1) the policies and procedures of child welfare agencies;
- 33 (2) if appropriate, specific child protective services cases; and
- 34 (3) other criteria the citizen review panel considers important
- 35 to ensure the protection of children.

36 (e) Each citizen review panel shall:

- 37 (1) meet at least one (1) time every three (3) months; and
- 38 (2) prepare and make available to the department and the
- 39 public an annual report that contains a summary of the
- 40 activities of the citizen review panel.

41 (f) The department shall, not more than six (6) months after the  
 42 date the department receives a report from a citizen review panel

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under subsection (e), submit to the citizen review panel a written response indicating whether and how the department will incorporate the recommendations of the citizen review panel. The department shall at the same time provide appropriate child welfare agencies with copies of the department's written response.

(g) A child welfare agency shall make all reports and other materials in the child welfare agency's possession available to a citizen review panel established under this section, including any reports and materials that the child welfare agency has received from other agencies.

(h) A member of a citizen review panel may not disclose to a person or government official any identifying information that is provided to the citizen review panel about:

- (1) a specific child protective services case or child welfare agency case;
- (2) a child or member of the child's family that is the subject of a child protective services investigation; or
- (3) any other individuals identified in confidential reports, documents, or other materials.

(i) If a member of a citizen review panel violates subsection (h), the department may remove the member from the citizen review panel.

(j) A child welfare agency shall cooperate and work with each citizen review panel established under this section.

SECTION 15. IC 31-27-3-3, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) An applicant must apply for a child caring institution license on forms provided by the department.

(b) An applicant must submit the required information as part of the application.

(c) The applicant must submit with the application a statement attesting the following:

- (1) That the applicant has not been convicted of:
  - (A) a felony; or
  - (B) a misdemeanor relating to the health and safety of children.
- (2) That the applicant has not been charged with:
  - (A) a felony; or
  - (B) a misdemeanor relating to the health and safety of children;

during the pendency of the application.

(d) The department, on behalf of an applicant, or, at the

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discretion of the department, an applicant, shall

(1) conduct a criminal history check of the following:

(A) (1) Each individual who is an applicant. and

(B) (2) The director or manager of a facility where children will be placed. and

(2) submit to the department the result of each criminal history check conducted under this subsection.

(3) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant.

(e) If the applicant conducts a criminal history check under subsection (d), the applicant shall: do the following:

(1) Conduct a criminal history check of the applicant's:

(A) employees; and

(B) volunteers;

who have or will have direct contact, on a regular and continuing basis, with children who are or will be under the direct supervision of the applicant.

(2) (1) maintain records of each the information it receives concerning each individual who is the subject of a criminal history check; and

(2) submit to the department a copy of the information it receives concerning each person described in subsection (d)(1) through (d)(3).

(f) An applicant is required to conduct a criminal history check required under subsection (e)(1) only one (1) time.

(f) If the department conducts a criminal history check on behalf of an applicant under subsection (d), the department shall:

(1) determine whether the subject of a national fingerprint based criminal history check has a record of a conviction for:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of a child;

(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and

(4) maintain a record of every report and all information the

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department receives concerning a person described in subsection (d).

(g) Except as provided in subsection (h), a criminal history check described in subsection (d) is required only at the time an application for a new license or the renewal of an existing license is submitted.

(h) A criminal history check required under subsection (d)(2) or (d)(3) must be completed on or before the date on which the subject of the check is employed or assigned as a volunteer. However, a fingerprint based criminal history background check defined in IC 31-9-2-22.5(1)(B) and required under subsection (d)(3) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer to a position described in subsection (d)(3). If a person described in this subsection has been the subject of a criminal history check (as described in IC 31-9-2-22.5) that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.

(g) (i) An applicant or licensee may provisionally employ an individual or assign a volunteer for whom a criminal history check is required under subsection (d)(3) during the period after the process of requesting fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received by not later than the ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual under subsection (d)(3), the applicant or licensee shall consider the following:

- (1) The training time required by an employee or a volunteer.
- (2) The safety and security of the children under the supervision of the applicant or licensee.

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**(3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.**

**(4) The staffing concerns of the applicant or licensee.**

**(5) Any other factor relating to the safety and security of the applicant's or licensee's operations.**

**(j)** The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history background check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective services investigation report.

**(k) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history report concerning the person.**

SECTION 16. IC 31-27-3-5, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the department of child abuse or neglect by:

(A) the applicant;

(B) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or

(C) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.

(2) A criminal conviction of the applicant, ~~an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant, or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant or the director or manager of a facility where children will be placed by the applicant,~~ of:

(A) a felony; or

(B) a misdemeanor related to the health and safety of a child;

**(C) a misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its**

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repeal); or

**(D) a misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.**

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

**(5) A determination by the department that the applicant previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.**

(b) An application for a license may also be denied if an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection ~~(a)(2)~~, (a) or (b), if:

(1) a license application ~~is~~ **could be** denied due to a criminal conviction of, **or a determination of child abuse or neglect by**, an employee or a volunteer of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed by the applicant;

the criminal conviction of, **or determination of child abuse or neglect by**, the former employee or former volunteer does not ~~require~~ **constitute a sufficient basis for the denial of a license application.**

**(e) The department may adopt rules to implement this section.**

SECTION 17. IC 31-27-3-18, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) A licensee shall keep

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records regarding each child in the control and care of the licensee as the department requires and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the child caring institution.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) An agency having the legal responsibility to care for a child placed at the child caring institution.

(5) The parent, guardian, or custodian of the child at the child caring institution.

**(6) A citizen review panel established under IC 31-25-2-20.4.**

SECTION 18. IC 31-27-3-31, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 31. **(a)** The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect by:

(A) the licensee;

(B) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(C) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, ~~an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee or the director or manager of a facility where children will be placed by the licensee,~~ of any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

**(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency**

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without a license under this article (or IC 12-17.4 before its repeal).

**(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.**

(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the department that the licensee made false statements in the records required by the department.

**(5) A determination by the department that the licensee previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.**

**(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has been convicted of any of the following:**

**(1) A felony described in IC 31-27-4-13(a).**

**(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.**

**(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:**

**(1) The length of time that has passed since the disqualifying conviction.**

**(2) The severity, nature, and circumstances of the offense.**

**(3) Evidence of rehabilitation.**

**(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.**

**(d) Notwithstanding subsection (a) or (b), if:**

**(1) a license could be revoked due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the licensee; and**

**(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction or determination;**

**the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.**

**(e) The department may adopt rules to implement this section.**

SECTION 19. IC 31-27-4-5, AS ADDED BY P.L.145-2006,

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SECTION 273, IS AMENDED TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2007]: Sec. 5. (a) An applicant must apply for  
a foster family home license on forms provided by the department.

(b) An applicant must submit the required information as part of the  
application.

(c) An applicant must submit with the application a statement  
attesting the following:

(1) That the applicant has not been convicted of:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of  
children.

(2) That the applicant has not been charged with:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of  
children;

during the pendency of the application.

(d) An applicant shall submit the necessary information, forms, or  
consents for the department to conduct a criminal history check for  
each individual who is an applicant.

(e) **The department, or at the discretion of the department,** an  
applicant, shall ~~do the following~~:

~~(i)~~ conduct a criminal history check of:

~~(A)~~ (1) the applicant's

~~(i)~~ employees and

~~(ii)~~ volunteers

who have or will have direct contact, on a regular and continuing  
basis, with children who are or will be under the direct  
supervision of the applicant; and

~~(B)~~ (2) all household members who are at least fourteen (14)  
years of age.

~~(2)~~ (f) **If the applicant conducts criminal history checks under  
subsection (e), the applicant shall maintain records of each criminal  
history check: the information received concerning each individual  
subject of a criminal history check.**

~~(f)~~ (g) **If the department conducts a criminal history check on  
behalf of an applicant under subsection (e), the department shall:**

(1) **make a determination whether the subject of a national  
fingerprint based criminal history check has a record of a  
conviction for:**

(A) a felony; or

(B) a misdemeanor relating to the health and safety of a  
child;

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(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and

(4) maintain a record of every report and all information the department receives concerning a person described in subsection (e).

(h) Except as provided in subsection (i), a criminal history check described in subsection (e) is required only at the time an application for a new license or the renewal of an existing license is submitted.

(i) With the exception of a fingerprint based criminal history background check (as defined in IC 31-9-2-22.5(1)(B)) and required under subsection (e)(1), a criminal history check concerning a person described in subsection (e) must be completed on or before the date on which the subject of the check is first employed or assigned as a volunteer in a position described in subsection (e)(1) or first becomes a resident of the applicant's household as described in subsection (e)(2). A fingerprint based criminal history background check (as defined in IC 31-9-2-22.5(1)(B)) and required under subsection (e)(1) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer. However, if a person described in this subsection has been the subject of a criminal history check that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.

An applicant is required to conduct a criminal history check required under subsection (e)(1) only one (1) time.

(g) (j) An applicant or licensee may provisionally employ an individual or assign a volunteer for whom a criminal history check is required under subsection (e)(3) during the period after the process of requesting fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received by not later than the ninety (90) days after the effective date of hire or volunteer assignment, the

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employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual under subsection (e)(3), the applicant or licensee shall consider the following:

- (1) The training time required by an employee or a volunteer.
- (2) The safety and security of the children under the supervision of the applicant or licensee.
- (3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.
- (4) The staffing concerns of the applicant or licensee.
- (5) Any other factor relating to the safety and security of the applicant's or licensee's operations.

(k) The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history background check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective investigation report.

(l) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history report concerning the person.

SECTION 20. IC 31-27-4-6, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The following constitute sufficient grounds for a denial of a license application:

- (1) A determination by the department of child abuse or neglect by:
  - (A) the applicant;
  - (B) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or
  - (C) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the

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direct supervision of the applicant; or

**(D) a person residing in the applicant's residence who is at least eighteen (18) years of age.**

(2) A criminal conviction of the applicant an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; of any of the following:

(A) a felony; or

(B) a misdemeanor related to the health and safety of a child;

**(C) a misdemeanor for operating a child care center without a license under IC 12-17.2-5-35; or**

**(D) a misdemeanor for operating a foster family home without a license under section 36 of this chapter.**

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

**(5) A determination by the department that the applicant previously operated a:**

**(A) child care home without a license under IC 12-17.2-5; or**

**(B) foster family home without a license under this chapter.**

(b) An application for a license may also be denied if an individual who resides in the residence of the applicant or an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:

**(1) A felony described in IC 31-27-4-13(a).**

**(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection or to permit the individual to reside in the applicant's residence.**

**(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:**

**(1) The length of time that has passed since the disqualifying conviction.**

**(2) The severity, nature, and circumstances of the offense.**

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**(3) Evidence of rehabilitation.**

**(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.**

**(5) The nature and extent of unsupervised contact with children residing in the home.**

**(d)** Notwithstanding subsection ~~(a)(2)~~, **(a) or (b)**, if:

(1) a license application ~~is~~ **could be** denied due to a criminal conviction of, **or a determination of child abuse or neglect by**, an employee, ~~or a~~ volunteer, **or person residing in the residence** of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed by the applicant **or that the person residing in the residence no longer resides there;**

the criminal conviction of, **or determination of child abuse or neglect by**, the former employee, ~~or~~ former volunteer, **or former household resident** does not ~~require~~ **constitute a sufficient basis for the** denial of a license application.

**(e) The department may adopt rules to implement this section.**

SECTION 21. IC 31-27-4-13, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) The department shall deny a license when an applicant fails to meet the requirements for a license. The department shall deny a license to an applicant who has been convicted of any of the following felonies:

(1) Murder (IC 35-42-1-1).

(2) Causing suicide (IC 35-42-1-2).

(3) Assisting suicide (IC 35-42-1-2.5).

(4) Voluntary manslaughter (IC 35-42-1-3).

(5) Reckless homicide (IC 35-42-1-5).

(6) Battery (IC 35-42-2-1).

**(7) Domestic battery (IC 35-42-2-1.3).**

~~(7)~~ **(8)** Aggravated battery (IC 35-42-2-1.5).

~~(8)~~ **(9)** Kidnapping (IC 35-42-3-2).

~~(9)~~ **(10)** Criminal confinement (IC 35-42-3-3).

~~(10)~~ **(11)** A felony sex offense under IC 35-42-4.

~~(11)~~ **(12)** Carjacking (IC 35-42-5-2).

~~(12)~~ **(13)** Arson (IC 35-43-1-1).

~~(13)~~ **(14)** Incest (IC 35-46-1-3).

~~(14)~~ **(15)** Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).

~~(15)~~ **(16)** Child selling (IC 35-46-1-4(d)).

~~(16)~~ **(17)** A felony involving a weapon under IC 35-47 or

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1 IC 35-47.5.

2 ~~(17)~~ **(18)** A felony relating to controlled substances under  
3 IC 35-48-4.

4 ~~(18)~~ **(19)** An offense relating to material or a performance that is  
5 harmful to minors or obscene under IC 35-49-3.

6 ~~(19)~~ **(20)** A felony that is substantially equivalent to a felony  
7 listed in subdivisions (1) through ~~(18)~~ **(19)** for which the  
8 conviction was entered in another state.

9 The department may deny a license to an applicant who has been  
10 convicted of a felony that is not listed in this subsection.

11 (b) The department shall send written notice by certified mail that  
12 the application has been denied and give the reasons for the denial.

13 (c) An administrative hearing concerning the denial of a license  
14 shall be provided upon written request by the applicant. The request  
15 must be made not more than thirty (30) days after receiving the written  
16 notice under subsection (b).

17 (d) An administrative hearing shall be held not more than sixty (60)  
18 days after receiving a written request.

19 (e) An administrative hearing shall be held in accordance with  
20 IC 4-21.5-3.

21 (f) The department shall issue a decision not more than sixty (60)  
22 days after the conclusion of a hearing.

23 SECTION 22. IC 31-27-4-21, AS ADDED BY P.L.145-2006,  
24 SECTION 273, IS AMENDED TO READ AS FOLLOWS  
25 [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) A licensee shall keep  
26 records required by the department regarding each child in the control  
27 and care of the licensee and shall report to the department upon request  
28 the facts the department requires with reference to children.

29 (b) The department shall keep records regarding children and facts  
30 learned about children and the children's parents or relatives  
31 confidential.

32 (c) The following have access to records regarding children and  
33 facts learned about children:

34 (1) A state agency involved in the licensing of the foster family  
35 home.

36 (2) A legally mandated child protection agency.

37 (3) A law enforcement agency.

38 (4) An agency having the legal responsibility to care for a child  
39 placed at the foster family home.

40 (5) The parent, guardian, or custodian of the child at the foster  
41 family home.

42 **(6) A citizen review panel established under IC 31-25-2-20.4.**

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SECTION 23. IC 31-27-4-32, AS ADDED BY P.L.145-2006,  
SECTION 273, IS AMENDED TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2007]: Sec. 32. (a) The following constitute  
sufficient grounds for revocation of a license:

(1) A determination by the department of child abuse or neglect  
by:

(A) the licensee;

(B) an employee of the licensee who has direct contact, on a  
regular and continuous basis, with children who are under the  
direct supervision of the licensee; or

(C) a volunteer of the licensee who has direct contact, on a  
regular and continuous basis, with children who are under the  
direct supervision of the licensee; or

**(D) a person at least eighteen (18) years of age who is  
residing in the home of the licensee.**

(2) A criminal conviction of the licensee, ~~an employee of the  
licensee who has direct contact, on a regular and continuous  
basis, with children who are under the direct supervision of the  
licensee; or a volunteer of the licensee who has direct contact, on  
a regular and continuous basis, with children who are under the  
direct supervision of the applicant; or~~ for any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(3) A determination by the department that the licensee made  
false statements in the licensee's application for licensure.

(4) A determination by the department that the licensee made  
false statements in the records required by the department.

**(5) A determination by the department that the licensee  
previously operated a:**

**(A) child care home without a license under IC 12-17.2-5;  
or**

**(B) foster family home without a license under this  
chapter.**

**(b) A license may also be revoked if an individual who resides in  
the residence of the licensee or an employee or volunteer of the  
licensee who has direct contact on a regular and continuous basis  
with children who are under the direct supervision of the licensee  
has been convicted of any of the following:**

**(1) A felony described in IC 31-27-4-13(a).**

**(2) Any other felony or a misdemeanor relating to the health  
and safety of a child, unless the licensee is granted a waiver by  
the department to employ or assign the person as a volunteer**

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in a position described in this subsection or to permit the individual to reside in the licensee's residence.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (b), if:

(1) a license could be revoked due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the licensee or an individual residing in the residence of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction or that the individual no longer resides in the licensee's residence;

the criminal conviction of, or determination of child abuse or neglect by, the former employee, former volunteer, or former household resident does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

SECTION 24. IC 31-27-5-4, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) An applicant must apply for a group home license on forms provided by the department.

(b) An applicant must submit the required information as part of the application.

(c) An applicant must submit with the application a statement attesting the following:

(1) That the applicant has not been convicted of:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children.

(2) That the applicant has not been charged with:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of children;

during the pendency of the application.

(d) The department on behalf of an applicant, or, at the

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1 **discretion of the department, an applicant, shall ~~(1)~~ conduct a**  
 2 **criminal history check of the following:**

3 ~~(A) (1) Each individual who is an applicant. and~~

4 ~~(B) (2) The director or manager of a facility where children will~~  
 5 ~~be placed. and~~

6 ~~(2) submit to the department the result of each criminal history~~  
 7 ~~check conducted under this subsection.~~

8 **(3) An employee or a volunteer of the applicant who has or**  
 9 **will have direct contact on a regular and continuing basis with**  
 10 **a child who is or will be placed in a facility operated by the**  
 11 **applicant.**

12 **(e) ~~An~~ If the applicant conducts a criminal history check under**  
 13 **subsection (d), the applicant shall: do the following:**

14 ~~(1) Conduct a criminal history check of the applicant's:~~

15 ~~(A) employees; and~~

16 ~~(B) volunteers;~~

17 **who have or will have direct contact, on a regular and continuing**  
 18 **basis, with children who are or will be under the direct**  
 19 **supervision of the applicant.**

20 ~~(2) (1) maintain records of each criminal history check: the~~  
 21 ~~information it receives concerning each individual who is the~~  
 22 ~~subject of a criminal history check; and~~

23 **(2) submit to the department a copy of the information the**  
 24 **applicant receives concerning each person described in**  
 25 **subsection (d)(1) through (d)(3).**

26 **(f) If the department conducts a criminal history check on**  
 27 **behalf of an applicant under subsection (d), the department shall:**

28 **(1) determine whether the subject of a national fingerprint**  
 29 **based criminal history check has a record of a conviction for:**

30 **(A) a felony; or**

31 **(B) a misdemeanor relating to the health and safety of a**  
 32 **child;**

33 **(2) notify the applicant of the determination under subdivision**  
 34 **(1) without identifying a specific offense or other identifying**  
 35 **information concerning a conviction contained in the national**  
 36 **criminal history record information;**

37 **(3) submit to the applicant a copy of any state limited criminal**  
 38 **history report that the department receives on behalf of any**  
 39 **person described in subsection (d); and**

40 **(4) maintain a record of every report and all information it**  
 41 **receives concerning a person described in subsection (d).**

42 **(g) Except as provided in subsection (h), a criminal history**

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check described in subsection (d) is required only at the time an application for a new license or the renewal of an existing license is submitted.

(h) A criminal history check required under subdivision (d)(2) or (d)(3) must be completed on or before the date on which the subject of the check is employed or assigned as a volunteer in a position described in subsection (d)(3). However, a fingerprint based criminal history background check defined in IC 31-9-2-22.5(1)(B) and required under subsection (e) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer to a position described in subsection (e). If a person described in this subsection has been the subject of a criminal history check (as described in IC 31-9-2-22.5) that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.

(i) An applicant or licensee may provisionally employ an individual or assign a volunteer for whom a criminal history check is required under subsection (d)(3) during the period after the process of requesting fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received by not later than the ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual under subsection (d)(3), the applicant or licensee shall consider the following:

- (1) The training time required by an employee or a volunteer.
- (2) The safety and security of the children under the supervision of the applicant or licensee.
- (3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.

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1 (4) The staffing concerns of the applicant or licensee.

2 (5) Any other factor relating to the safety and security of the  
3 applicant's or licensee's operations.

4 (j) The department shall, at the applicant's request, inform the  
5 applicant whether the department has or does not have a record of  
6 the person who is the subject of a criminal history background  
7 check and if the department has identified the person as an alleged  
8 perpetrator of abuse or neglect. The department may not provide  
9 to the applicant any details or personally identifying information  
10 contained in any child protective services investigation report.

11 (k) A person who is the subject of a criminal history check  
12 conducted in accordance with this section may request the state  
13 police department to provide the person with a copy of any state or  
14 national criminal history report concerning the person.

15 (f) An applicant is required to conduct a criminal history check  
16 required under subsection (e)(1) only one (1) time for each employee  
17 or volunteer.

18 (g) The department shall, at the applicant's request, inform the  
19 applicant whether the department has or does not have a record of the  
20 person who is the subject of a criminal history background check and  
21 if the department has identified the person as an alleged perpetrator of  
22 abuse or neglect. The department may not provide to the applicant any  
23 details or personally identifying information contained in any child  
24 protective investigation report.

25 SECTION 25. IC 31-27-5-6, AS ADDED BY P.L.145-2006,  
26 SECTION 273, IS AMENDED TO READ AS FOLLOWS  
27 [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The following constitute  
28 sufficient grounds for a denial of a license application:

29 (1) A determination by the department of child abuse or neglect  
30 by:

31 (A) the applicant;

32 (B) an employee of the applicant who has direct contact, on a  
33 regular and continuous basis, with children who are under the  
34 direct supervision of the applicant; or

35 (C) a volunteer of the applicant who has direct contact, on a  
36 regular and continuous basis, with children who are under the  
37 direct supervision of the applicant.

38 (2) A criminal conviction of the applicant, an employee of the  
39 applicant who has direct contact, on a regular and continuous  
40 basis, with children who are under the direct supervision of the  
41 applicant, or a volunteer of the applicant who has direct contact,  
42 on a regular and continuous basis, with children who are under

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the direct supervision of the applicant, or the director or manager of a facility where children will be placed by the applicant of any of the following:

(A) A felony.

(B) A misdemeanor related to the health and safety of a child.

**(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).**

**(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.**

(3) A determination by the department that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made false statements in the records required by the department.

**(5) A determination by the department that the applicant previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.**

(b) An application for a license may also be denied if an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:

(1) A felony described in IC 31-27-4-13(a).

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection ~~(a)(2)~~, (a) or (b), if:

(1) a license application ~~is~~ **could be** denied due to a criminal conviction of, **or a determination of child abuse or neglect by,** an employee or a volunteer of the applicant; and

(2) the department determines that the employee or volunteer has

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1           been dismissed by the applicant;  
 2           the criminal conviction of, **or determination of child abuse or neglect**  
 3 **by**, the former employee or former volunteer does not ~~require~~  
 4 **constitute a sufficient basis for the** denial of a license application.

5           **(e) The department may adopt rules to implement this section.**

6           SECTION 26. IC 31-27-5-18, AS ADDED BY P.L.145-2006,  
 7 SECTION 273, IS AMENDED TO READ AS FOLLOWS  
 8 [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) A licensee shall keep  
 9 records required by the department regarding each child in the control  
 10 and care of the licensee and shall report to the department, upon  
 11 request, the facts the department requires with reference to children.

12           (b) The department shall keep records regarding children and facts  
 13 learned about children and the children's parents or relatives  
 14 confidential.

15           (c) The following have access to records regarding children and  
 16 facts learned about children:

- 17           (1) A state agency involved in the licensing of the group home.
- 18           (2) A legally mandated child protection agency.
- 19           (3) A law enforcement agency.
- 20           (4) An agency having the legal responsibility to care for a child
- 21           placed at the group home.
- 22           (5) The parent, guardian, or custodian of the child at the group
- 23           home.

24           **(6) A citizen review panel established under IC 31-25-2-20.4.**

25           SECTION 27. IC 31-27-5-31, AS ADDED BY P.L.145-2006,  
 26 SECTION 273, IS AMENDED TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2007]: Sec. 31. **(a)** The following constitute  
 28 sufficient grounds for revocation of a license:

29           (1) A determination by the department of child abuse or neglect  
 30 by:

- 31           (A) the licensee;
- 32           (B) an employee of the licensee who has direct contact, on a
- 33           regular and continuous basis, with children who are under the
- 34           direct supervision of the licensee; or
- 35           (C) a volunteer of the licensee who has direct contact, on a
- 36           regular and continuous basis, with children who are under the
- 37           direct supervision of the licensee.

38           (2) A criminal conviction of the licensee, ~~an employee of the~~  
 39 ~~licensee who has direct contact, on a regular and continuous~~  
 40 ~~basis, with children who are under the direct supervision of the~~  
 41 ~~licensee, or a volunteer of the licensee who has direct contact, on~~  
 42 ~~a regular and continuous basis, with children who are under the~~

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1 ~~direct supervision of the licensee, or the director or manager of~~  
 2 ~~a facility where children will be placed by the licensee for any~~  
 3 ~~of the following:~~

4 (A) A felony.

5 (B) A misdemeanor related to the health or safety of a child.

6 **(C) A misdemeanor for operating a child caring institution,**  
 7 **foster family home, group home, or child placing agency**  
 8 **without a license under this article (or IC 12-17.4 before its**  
 9 **repeal).**

10 **(D) A misdemeanor for operating a child care center or**  
 11 **child care home without a license under IC 12-17.2.**

12 (3) A determination by the department that the licensee made  
 13 false statements in the licensee's application for licensure.

14 (4) A determination by the department that the licensee made  
 15 false statements in the records required by the department.

16 **(5) A determination by the department that the licensee**  
 17 **previously operated a home or facility without a license**  
 18 **required under any applicable provision of this article (or**  
 19 **IC 12-17.4 before its repeal) or IC 12-17.2.**

20 **(b) A license may also be revoked if an employee or volunteer of**  
 21 **the licensee who has direct contact on a regular and continuous**  
 22 **basis with children who are under the direct supervision of the**  
 23 **licensee has been convicted of any of the following:**

24 (1) A felony described in IC 31-27-4-13(a).

25 (2) Any other felony or a misdemeanor relating to the health  
 26 and safety of a child, unless the licensee is granted a waiver by  
 27 the department to employ or assign the person as a volunteer  
 28 in a position described in this subsection.

29 **(c) In determining whether to grant a waiver under subsection**  
 30 **(b), the department shall consider the following factors:**

31 (1) The length of time that has passed since the disqualifying  
 32 conviction.

33 (2) The severity, nature, and circumstances of the offense.

34 (3) Evidence of rehabilitation.

35 (4) The duties and qualifications required for the proposed  
 36 employment positions or volunteer assignment.

37 **(d) Notwithstanding subsection (a) or (b), if:**

38 (1) a license could be revoked due to a criminal conviction of,  
 39 or a determination of child abuse or neglect by, an employee  
 40 or a volunteer of the licensee; and

41 (2) the department determines that the employee or volunteer  
 42 has been dismissed by the licensee within a reasonable time

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1           **after the licensee became aware of the conviction;**  
 2           **the criminal conviction of, or determination of child abuse or**  
 3           **neglect by, the former employee or former volunteer does not**  
 4           **constitute a sufficient basis for the revocation of a license.**

5           **(e) The department may adopt rules to implement this section.**

6           SECTION 28. IC 31-27-6-2, AS ADDED BY P.L.145-2006,  
 7           SECTION 273, IS AMENDED TO READ AS FOLLOWS  
 8           [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) An applicant must apply for  
 9           a child placing agency license on forms provided by the department.

10          (b) An applicant must submit the required information as part of the  
 11          application.

12          (c) The applicant ~~shall~~ **must** submit with the application a statement  
 13          attesting the following:

14           (1) That the applicant has not been convicted of:

15           (A) a felony; or

16           (B) a misdemeanor relating to the health and safety of  
 17           children.

18           (2) That the applicant has not been charged with:

19           (A) a felony; or

20           (B) a misdemeanor relating to the health and safety of  
 21           children;

22           during the pendency of the application.

23          (d) **The department on behalf of an applicant, or, at the**  
 24          **discretion of the department,** an applicant, shall ~~(1)~~ conduct a  
 25          criminal history check of **the following:**

26           ~~(A)~~ (1) Each individual who is an applicant. ~~and~~

27           ~~(B)~~ (2) The director or manager of a facility where children will  
 28           be placed. ~~and~~

29           (2) submit to the department the result of each criminal history  
 30           check conducted under this subsection.

31           (3) **An employee or a volunteer of the applicant who has or**  
 32           **will have direct contact on a regular and continuing basis with**  
 33           **a child who is or will be placed in a facility operated by the**  
 34           **applicant.**

35          (e) ~~An~~ **If the applicant conducts a criminal history check under**  
 36          **subsection (d), the applicant shall: do the following:**

37           ~~(1)~~ Conduct a criminal history check of the applicant's:

38           ~~(A)~~ employees; and

39           ~~(B)~~ volunteers;

40           who have or will have direct contact, on a regular and continuing  
 41           basis, with children who are or will be under the direct  
 42           supervision of the applicant.

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~~(2)~~ (1) maintain records of ~~each~~ the information it receives concerning each individual who is the subject of a criminal history check; and

(2) submit to the department a copy of the information it receives concerning each person described in subsection (d)(1) through (d)(3).

~~(f)~~ An applicant is required to conduct a criminal history check required under subsection ~~(c)(1)~~ only one ~~(1)~~ time for each employee or volunteer.

(f) If the department conducts a criminal history check on behalf of an applicant under subsection (d), the department shall:

(1) determine whether the subject of a national fingerprint based criminal history check has a record of a conviction for:

(A) a felony; or

(B) a misdemeanor relating to the health and safety of a child;

(2) notify the applicant of the determination under subdivision

(1) without identifying a specific offense or other identifying information concerning a conviction contained in the national criminal history record information;

(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and

(4) maintain a record of every report and all information the department receives concerning a person described in subsection (d).

(g) Except as provided in subsection (h), a criminal history check described in subsection (d) is required only at the time an application for a new license or the renewal of an existing license is submitted.

(h) A criminal history background check required under subsection (d)(2) or (d)(3) must be completed on or before the date on which the subject of the check is employed or assigned as a volunteer. However, a fingerprint based criminal history background check as described in IC 31-9-2-22.5(1)(B) and required under subsection (d)(3) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer to a position described in subsection (d)(3). If a person described in this subsection has been the subject of a criminal history background check (as described in IC 31-9-2-22.5) that was conducted not more than one (1) year before the date the license application is submitted to the

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department, a new criminal history check of that person is not required.

(i) An applicant or a licensee may provisionally employ an individual or assign a volunteer for whom a criminal history background check is required under subsection (d)(3) during the period after the process of requesting fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received within ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or a volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or an employee of the applicant or licensee who has been the subject of a completed and approved criminal history background check. In determining whether to provisionally hire or assign as a volunteer an individual under subsection (d)(3), the applicant or licensee shall consider the following:

- (1) The training time required by an employee or a volunteer.
- (2) The safety and security of the children under the supervision of the applicant or licensee.
- (3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.
- (4) The staffing concerns of the applicant or licensee.
- (5) Any other factor relating to the safety and security of the applicant's or licensee's operations.

(g) (j) The department shall, at the applicant's request, inform the applicant whether the department has or does not have a record of the person who is the subject of a criminal history background check and if the department has identified the person as an alleged perpetrator of abuse or neglect. The department may not provide to the applicant any details or personally identifying information contained in any child protective investigation report.

(k) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history report concerning the person.

SECTION 29. IC 31-27-6-3, AS ADDED BY P.L.145-2006,



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SECTION 273, IS AMENDED TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The following constitute  
sufficient grounds for denial of a license application:

(1) A determination by the department of child abuse or neglect  
by:

(A) the applicant;

(B) an employee of the applicant who has direct contact, on a  
regular and continuous basis, with children who are under the  
direct supervision of the applicant; or

(C) a volunteer of the applicant who has direct contact, on a  
regular and continuous basis, with children who are under the  
direct supervision of the applicant.

(2) A criminal conviction of the applicant, ~~an employee of the  
applicant who has direct contact, on a regular and continuous  
basis, with children who are under the direct supervision of the  
applicant; or a volunteer of the applicant who has direct contact;  
on a regular and continuous basis, with children who are under  
the direct supervision of the applicant; or the director or  
manager of a facility where children will be placed by the  
licensee~~ for any of the following:

(A) A felony.

(B) A misdemeanor related to the health and safety of a child.

**(C) A misdemeanor for operating a child caring institution,  
foster family home, group home, or child placing agency  
without a license under this article (or IC 12-17.4 before its  
repeal).**

**(D) A misdemeanor for operating a child care center or  
child care home without a license under IC 12-17.2.**

(3) A determination by the department that the applicant made  
false statements in the applicant's application for licensure.

(4) A determination by the department that the applicant made  
false statements in the records required by the department.

**(5) A determination by the department that the applicant  
previously operated a home or facility without a license  
required under any applicable provision of this article (or  
IC 12-17.4 before its repeal) or IC 12-17.2.**

(b) An application for a license may also be denied if an  
employee or volunteer of the applicant who has direct contact on  
a regular and continuous basis with children who are under the  
direct supervision of the applicant has been convicted of any of the  
following:

(1) A felony described in IC 31-27-4-13(a).

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(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection ~~(a)(2)~~, (a) or (b), if:

(1) a license application ~~is~~ **could be** denied due to a criminal conviction of, **or a determination of child abuse or neglect by**, an employee or a volunteer of the applicant; and

(2) the department determines that the employee or volunteer has been dismissed by the applicant;

the criminal conviction of, **or determination of child abuse or neglect by**, the former employee or former volunteer does not ~~require~~ **constitute a sufficient basis for the** denial of a license application.

(e) **The department may adopt rules to implement this section.**

SECTION 30. IC 31-27-6-15, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the child placing agency.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) **A citizen review panel established under IC 31-25-2-20.4.**

SECTION 31. IC 31-27-6-28, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 28. **(a)** The following constitute sufficient grounds for revocation of a license:

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(1) A determination by the department of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the licensee;

(B) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(C) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee ~~an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or the director or manager of a facility where children will be placed by the licensee~~ of any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

**(C) A misdemeanor for operating a child caring institution, foster family home, group home, or child placing agency without a license under this article (or IC 12-17.4 before its repeal).**

**(D) A misdemeanor for operating a child care center or child care home without a license under IC 12-17.2.**

(3) A determination by the department that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the department that the licensee made false statements in the records required by the department.

**(5) A determination by the department that the licensee previously operated a home or facility without a license required under any applicable provision of this article (or IC 12-17.4 before its repeal) or IC 12-17.2.**

**(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has been convicted of any of the following:**

**(1) A felony described in IC 31-27-4-13(a).**

**(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.**

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(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

- (1) The length of time that has passed since the disqualifying conviction.
- (2) The severity, nature, and circumstances of the offense.
- (3) Evidence of rehabilitation.
- (4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (a) or (b), if:

- (1) a license could be revoked due to a criminal conviction of, or a determination of child abuse or neglect by, an employee or a volunteer of the licensee; and
- (2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction or determination;

the criminal conviction of, or determination of child abuse or neglect by, the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section.

SECTION 32. IC 31-32-1-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Any written notice of a hearing or other court proceeding in a child in need of services case under IC 31-34 or a delinquency case under IC 31-37 shall be given to:

- (1) a party in the manner provided by Rule 5 of the Indiana Rules of Trial Procedure; or
- (2) an individual who is not a party by:
  - (A) personal delivery to the individual; or
  - (B) mail as provided in Rule 5(B)(2) of the Indiana Rules of Trial Procedure.

(b) Notice by mail must be deposited in the United States mail not less than five (5) calendar days (excluding Saturdays, Sundays, and national legal holidays recognized by the federal government) before the date of the scheduled hearing or proceeding.

(c) Written notice may be given by either:

- (1) a copy of a court order or docket entry; or
- (2) a letter addressed to the individual required to be notified; that states the date, time, and purpose of the hearing.

(d) Written notice is not required if verbal notice of the date, time, place, and purpose of the hearing is given by the court at an earlier hearing or proceeding at which the individual to be notified

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1 is present.

2 (e) Written notice is not required if:

3 (1) the hearing or proceeding is scheduled to be held at a time  
4 within forty eight (48) hours (excluding Saturdays, Sundays,  
5 and any day on which a legal holiday is observed for state  
6 employees) after the court sets the time for the hearing or  
7 proceeding; and

8 (2) the individual responsible for giving the notice under this  
9 section:

10 (A) provides verbal notice of the date, time, place, and  
11 purpose of the hearing or proceeding directly to the person  
12 required to be notified; and

13 (B) verifies by affidavit or testimony at the hearing that  
14 verbal notice was given as required under this subsection.

15 (f) Except as provided in subsection (d):

16 (1) the department is responsible for giving all notices of a  
17 hearing or proceeding in a child in need of services case under  
18 IC 31-34; and

19 (2) the prosecuting attorney or the probation department of  
20 the juvenile court is responsible for giving all notices of a  
21 hearing or proceeding in a delinquency case under IC 31-37.

22 SECTION 33. IC 31-33-8-13, AS AMENDED BY P.L.234-2005,  
23 SECTION 127, IS AMENDED TO READ AS FOLLOWS  
24 [EFFECTIVE JULY 1, 2007]: Sec. 13. Whenever:

25 (1) an arrest relating to child abuse or neglect is made; the law  
26 enforcement agency that makes the arrest;

27 (2) criminal charges relating to child abuse or neglect are filed;  
28 the court in which the charges are filed;

29 (3) a child in need of services determination is made; the  
30 department; or

31 (4) a court approves a program of informal adjustment under  
32 IC 31-34-8 arising out of a child abuse or neglect report; the  
33 department; or

34 (5) a person who is accused of child abuse or neglect:

35 (A) enters into a services referral agreement; and

36 (B) fails to substantially comply with the terms of the services  
37 referral agreement;

38 under IC 31-33-13; the department;

39 shall transmit to the registry, not more than five (5) working days after  
40 the circumstances described by subdivisions (1) through (5) occur; the  
41 relevant a court finds that a child is a child in need of services on  
42 the basis of a child abuse or neglect report classified as substantiated

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**under section 12 of this chapter, the department shall enter into the index a copy of the court's judgment.**

SECTION 34. IC 31-33-18-2, AS AMENDED BY P.L.146-2006, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. The reports and other material described in section 1(a) of this chapter and the unredacted reports and other material described in section 1(b) of this chapter shall be made available only to the following:

(1) Persons authorized by this article.

(2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.

(3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.

(4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.

(5) An individual legally authorized to place a child in protective custody if:

(A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and

(B) the individual requires the information in the report or record to determine whether to place the child in protective custody.

(6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.

(7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.

(8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, for redaction of the record in accordance with section 1.5 of this chapter, or upon the court's finding that access to the

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records may be necessary for determination of an issue before the court. However, except for disclosure of a redacted record in accordance with section 1.5 of this chapter, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for child protection services or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) An employee of the department, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 31-26-5, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

(16) A local child fatality review team established under IC 31-33-24-6.

(17) The statewide child fatality review committee established by IC 31-33-25-6.

(18) The department.

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(19) The division of family resources, if the investigation report:

(A) is classified as substantiated; and

(B) concerns:

(i) an applicant for a license to operate;

(ii) a person licensed to operate;

(iii) an employee of; or

(iv) a volunteer providing services at;

a child care center licensed under IC 12-17.2-4 or a child care home licensed under IC 12-17.2-5.

**(20) A citizen review panel established under IC 31-25-2-20.4.**

SECTION 35. IC 31-33-26 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

**Chapter 26. Child Protection Index**

**Sec. 1. (a) As used in this chapter, "child care provider" means a person who:**

(1) provides child care (as defined in IC 12-7-2-28.2) regardless of whether the person is required to be licensed or registered under IC 12-17.2; or

(2) is a child caring institution, a foster family home, a group home, or a child placing agency that is licensed or required to be licensed under IC 31-27.

**(b) As used in this chapter, "index" refers to the child protection index established under section 2 of this chapter.**

**Sec. 2. The department shall establish and maintain a centralized, computerized child protection index to organize and access data regarding substantiated reports of child abuse and neglect that the department receives from throughout Indiana under this article.**

**Sec. 3. In addition to the equipment needed to establish, operate, and maintain the index, the index must include the following components:**

(1) One (1) computer to be purchased for every two (2) child welfare caseworkers.

(2) Automated risk assessment in which a child welfare caseworker or supervisor is able to review a substantiated child abuse and neglect case to determine prior case history during the intake, investigation, assessment, and case management processes.

(3) The capability to allow supervisors to monitor child abuse and neglect cases and reports relating to the cases.

(4) The automated production of standard reports to enable

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the automated compilation of information gathered on forms used by child welfare caseworkers to report the information and results of child abuse and neglect cases. The index must also provide for the automation of other data for planning and evaluation as determined by the department.

(5) The capability of same day notification and transfer of statistical information to the department regarding new and closed child abuse and neglect cases.

(6) The enabling of child welfare supervisors to review a child abuse or neglect determination at any point after the investigation is initially classified as substantiated abuse or neglect, to confirm the status of the case, and to allow for the consolidated management of cases.

(7) The capability for adjusting the index's programming at a later date if additional reporting requirements occur.

(8) A word processing capability to allow case notes to be recorded with each substantiated child abuse and neglect case.

Sec. 4. (a) In addition to the components described in section 3 of this chapter, the index must have the capability to maintain a case history file.

(b) Whenever a person enters a new child abuse or neglect report into the index, the index must have the capability to automatically search for reports that match the name of the:

(1) perpetrator;

(2) victim; or

(3) person who is legally responsible for the victim's welfare; with the persons named in the new report as described in this chapter.

(c) If the registry identifies a previous, substantiated report, the index must have the capability to transfer the report to the county where the new report originated not later than twenty-four (24) hours after receipt of the new report. If a previous, matching report is located, a case history extract must be made available to the assigned caseworker.

Sec. 5. (a) Subject to the accessibility to files provided in subsection (b), at least ten (10) levels of security for confidentiality in the index must be maintained.

(b) The index must have a comprehensive system of limited access to information as follows:

(1) The index must be accessed only by the entry of an operator identification number and a password.

(2) A child welfare caseworker must be allowed to access only:

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- 1 (A) cases that are assigned to the caseworker; and  
 2 (B) other cases or investigations that involve:  
 3 (i) a family member of a child; or  
 4 (ii) a child;  
 5 who is the subject of a case described in clause (A).  
 6 (3) A child welfare supervisor may access only the following:  
 7 (A) Cases assigned to the supervisor.  
 8 (B) Cases assigned to a caseworker who reports to the  
 9 supervisor.  
 10 (C) Other cases or investigations that involve:  
 11 (i) a family member of a child; or  
 12 (ii) a child;  
 13 who is the subject of a case described in clause (A) or (B).  
 14 (D) Cases that are unassigned.  
 15 (4) To preserve confidentiality in the workplace, child welfare  
 16 managers, as designated by the department, may access any  
 17 case, except restricted cases involving:  
 18 (A) a state employee; or  
 19 (B) the immediate family member of a state employee;  
 20 who has access to the index. Access to restricted information  
 21 under this subdivision may be obtained only if an additional  
 22 level of security is implemented.  
 23 (5) Access to records of authorized users, including  
 24 passwords, is restricted to:  
 25 (A) users designated by the department as an  
 26 administrator; and  
 27 (B) the administrator's level of access as determined by the  
 28 department.  
 29 (6) Ancillary programs that may be designed for the index  
 30 may not be executed in a manner that would circumvent the  
 31 index's log-on security measures.  
 32 (7) Certain index functions must be accessible only to index  
 33 operators with specified levels of authorization as determined  
 34 by the department.  
 35 (8) Files containing passwords must be encrypted.  
 36 (9) There must be two (2) additional levels of security for  
 37 confidentiality as determined by the department.

38 **Sec. 6. The department shall store data regarding child abuse or**  
 39 **neglect reports in a manner that allows the data to be retrieved**  
 40 **based on the following, if known:**

- 41 (1) The child's name.  
 42 (2) The child's date of birth.

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(3) The alleged perpetrator's name.

(4) The child's mother's name.

(5) The child's father's name.

(6) The name of a sibling of the child.

(7) The name of the child's guardian or custodian if applicable.

Sec. 7. The department may adopt rules under IC 4-22-2 to ensure that the confidentiality of and access to reports of child abuse or neglect are maintained as provided in this chapter.

Sec. 8. (a) This section does not apply to substantiated reports if a court has determined that a child is a child in need of services based on:

(1) a report of child abuse or neglect that names the perpetrator as the individual who committed the child abuse or neglect; or

(2) facts presented to the court at a hearing in a child in need of services case commenced under IC 31-34 that are consistent with the facts and conclusions stated in the report, if the department approved the substantiated report after the court's determination.

(b) Not later than thirty (30) days after the department enters a substantiated child abuse or neglect report into the index, the department shall notify:

(1) the parent, guardian, or custodian of the child who is named in the report as the victim of the child abuse or neglect; and

(2) any person identified as the perpetrator, if other than the child's parent, guardian, or custodian;

that the department has entered the report into the index.

(c) The department shall state the following in a notice to the perpetrator of a substantiated report under subsection (b):

(1) The report has been classified as substantiated.

(2) The perpetrator may request that a substantiated report be amended or expunged at an administrative hearing if the perpetrator does not agree with the classification of the report unless a court is in the process of making a determination.

(3) The perpetrator's request for an administrative hearing to contest the classification of a substantiated report must be received by the department not more than thirty (30) days after the notice is served on the perpetrator as provided in IC 4-21.5-3-1(b). Time shall be computed as provided in IC 4-21.5-3-2.

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(d) If the perpetrator fails to request an administrative hearing within the time specified in subsection (c)(3), the perpetrator named in a substantiated report may request an administrative hearing to contest the classification of the report if the perpetrator demonstrates that the failure to request an administrative hearing was due to excusable neglect or fraud. The Indiana Rules of Civil Procedure provide the standard for excusable neglect or fraud.

Sec. 9. (a) Except as provided in sections 11 and 12 of this chapter, the department shall conduct an administrative hearing upon a request made under section 8 of this chapter.

(b) At the administrative hearing, the department must prove by a preponderance of credible evidence that the perpetrator is responsible for the child's abuse or neglect.

(c) During an administrative hearing under this section, the administrative hearing officer shall consider hearsay evidence to be competent evidence and may not exclude hearsay based on the technical rules of evidence. However, a determination may not be based solely on evidence that is hearsay.

(d) If the department fails to carry the burden of proof under subsection (b), the department shall amend or expunge the report as ordered by the administrative hearing officer within the period provided under section 15 of this chapter.

(e) The department shall maintain the confidentiality of an abuse or a neglect report during the administrative process.

(f) The administrative hearing shall be closed.

(g) The administrative files shall be closed and not disclosed to the public.

Sec. 10. The department shall administer the index in a manner that enables the department to do the following:

(1) Immediately identify and locate prior reports of child abuse or neglect through the use of the department's:

(A) computerized tracking system; and

(B) automated risk assessment system.

(2) Track steps in the investigative process to ensure compliance with all requirements for a report of child abuse and neglect.

(3) Maintain and produce aggregate statistical reports monitoring patterns of child abuse and neglect that the department shall make available to the public upon request.

(4) Serve as a resource for the evaluation, management, and planning of preventive and remedial services to children who have been subject to child abuse or neglect.

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1       **Sec. 11. (a) If a court having jurisdiction over a child in need of**  
 2       **services case under IC 31-34 has determined or is anticipated to**  
 3       **determine whether:**

4               **(1) a report of suspected child abuse or neglect is properly**  
 5               **substantiated;**

6               **(2) child abuse or neglect occurred; or**

7               **(3) any person was a perpetrator of child abuse or neglect;**  
 8       **the determination of the court is binding.**

9       **(b) The administrative hearing under this chapter shall be**  
 10       **stayed pending an anticipated action by the court.**

11       **(c) A person named as a perpetrator in a report of suspected**  
 12       **child abuse or neglect is not entitled to an administrative hearing**  
 13       **under this chapter if a court has determined that:**

14               **(1) the alleged child abuse or neglect did not occur; or**

15               **(2) the person was not a perpetrator of the alleged child abuse**  
 16               **or neglect.**

17       **Sec. 12. (a) If criminal charges are filed against a perpetrator**  
 18       **based on the same facts and circumstances on which the**  
 19       **department classified a child abuse or neglect report as**  
 20       **substantiated, any administrative hearing requested by the**  
 21       **perpetrator under this chapter shall be stayed pending disposition**  
 22       **of the criminal charges.**

23       **(b) If the criminal charges result in the conviction of the**  
 24       **perpetrator and the facts that provided a necessary element for the**  
 25       **conviction also provided the basis for the substantiated report**  
 26       **under IC 31-33-8-12, the person named in the report as a**  
 27       **perpetrator of child abuse or neglect is not entitled to an**  
 28       **administrative hearing under this chapter.**

29       **Sec. 13. The department shall adopt rules under IC 4-22-2:**

30               **(1) to provide procedures not inconsistent with section 9 of**  
 31               **this chapter by which any person identified as a perpetrator**  
 32               **in a substantiated report of child abuse or neglect that is**  
 33               **entered in the child protection index may request and obtain**  
 34               **an administrative hearing as provided in this chapter;**

35               **(2) to establish procedures for the conduct of the**  
 36               **administrative hearing; and**

37               **(3) to establish provisions for administrative review by the**  
 38               **department of a proposed or approved substantiated report,**  
 39               **before or after an administrative hearing is available or**  
 40               **conducted.**

41       **Sec. 14. The department shall immediately amend or expunge**  
 42       **from the index a substantiated report containing an inaccuracy**

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arising from an administrative or a clerical error.

**Sec. 15. (a)** The department shall expunge a substantiated report contained within the index as follows:

(1) Not later than ten (10) working days after any of the following occurs:

(A) A court having jurisdiction over a child in need of services proceeding determines that child abuse or neglect has not occurred.

(B) An administrative hearing officer under this chapter finds that the child abuse or neglect report is unsubstantiated.

(C) A court having juvenile jurisdiction enters an order for expungement of the report under IC 31-33-7-6.5.

(2) Not later than twenty (20) years after a court determines that a child is a child in need of services based upon the report.

(b) The department shall amend a substantiated report contained in the index by deleting the name of an alleged perpetrator if:

(1) a court having jurisdiction over a child in need of services proceeding; or

(2) an administrative hearing officer under this chapter; finds that the person was not a perpetrator of the child abuse or neglect that occurred.

(c) If subsection (a) does not apply, the department shall expunge the substantiated report not later than the date on which any child who is named in the report as a victim of child abuse or neglect becomes twenty-four (24) years of age.

(d) The department shall expunge an indicated report contained in the index at the time specified in IC 31-33-8-12.

(e) The department shall expunge an unsubstantiated report contained in the index not later than six (6) months after the date the report was entered into the index.

**Sec. 16. (a)** A person or an organization may have access to information contained in the index as follows:

(1) A law enforcement agency may have access to a substantiated report for purposes of investigating or criminally prosecuting a person identified as a perpetrator of child abuse or neglect.

(2) A child care provider, upon submitting a written consent for release of information signed by an individual who:

(A) is employed by or who has applied for employment

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with the child care provider;

(B) has volunteered to provide services to the child care provider in a capacity that would place the individual in direct contact, on a regular and continuous basis, with children who are or will be under the direct supervision of the child care provider; or

(C) is at least eighteen (18) years of age and resides in the home of the child care provider;

may have access to any information relating to a substantiated report of child abuse or neglect that names the employee, applicant, volunteer, or household resident as the perpetrator of child abuse or neglect.

(3) A person may have access to any information that is contained in the index pertaining to the person, with protection for the identity of:

(A) a person who reports the child abuse or neglect; and

(B) any other appropriate person.

(4) A person or an agency to whom child abuse and neglect reports are available under IC 31-33-18 may have access to information contained in the index.

(5) Representatives of the division of family resources designated by the director of the division may have access to and use any information relating to a substantiated report of child abuse or neglect that would constitute a basis for denial or revocation of a license for a child care center under IC 12-17.2-4 or a child care home under IC 12-17.2-5.

(6) Representatives of the department designated by the director may have access to and use any information relating to a substantiated report of child abuse or neglect that would constitute a basis for denial or revocation of a license for a child caring institution, foster family home, group home, or child placing agency under IC 31-27.

(7) Any representative of the department, a court having juvenile jurisdiction, and any party in a case under IC 31-34 or IC 31-37 may have access to and use any information relating to a substantiated report of child abuse or neglect in connection with a determination of an appropriate out of home placement for a child under any applicable provision of IC 31-34 or IC 31-37 that requires a criminal history check (as described in IC 31-9-2-22.5) concerning any person.

(8) The department shall provide any information contained in a substantiated report of child abuse or neglect that is

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1 included in the index to an authorized agency of another state  
 2 that requests information concerning a prospective foster or  
 3 adoptive parent, or any other adult living in the home of a  
 4 prospective foster or adoptive parent, in accordance with 42  
 5 U.S.C. 671(a)(20)(C).

6 (9) The department shall transmit or provide to a national  
 7 index of substantiated cases of child abuse or neglect  
 8 established in accordance with 42 U.S.C. 16990:

9 (A) a copy of any substantiated report and related  
 10 information entered in the index; and

11 (B) information concerning expungement or amendment  
 12 of any substantiated report as provided in section 14 or 15  
 13 of this chapter.

14 (10) To determine the eligibility of a child care provider to  
 15 receive a voucher payment (as defined in IC 12-17.2-3.5-3),  
 16 the division of family resources may use information  
 17 contained in the index concerning whether a child has been  
 18 found by a court to be a child in need of services based on a  
 19 report of child abuse or neglect naming an individual  
 20 described in IC 12-17.2-3.5-4.1(a) as a perpetrator.

21 (b) Except as provided in this section or in rules adopted under  
 22 subsection (c), the department may not disclose information used  
 23 in connection with the department's activities under this section.

24 (c) The department shall adopt rules under IC 4-22-2 relating  
 25 to the procedure for disclosure of information described in this  
 26 section.

27 **Sec. 17. (a) If a court grants a name change under IC 34-28-2**  
 28 **(or IC 34-4-6 before its repeal) to a person:**

29 (1) against whom an allegation of child abuse or neglect has  
 30 been substantiated; and

31 (2) whose name is maintained within the index in accordance  
 32 with this chapter;

33 the person must notify the department regarding the name change  
 34 not more than ten (10) business days after the court enters a decree  
 35 changing the person's name.

36 (b) The notice under subsection (a) must include a copy of the  
 37 decree of the court that changes the name of the person, certified  
 38 under the seal of the clerk of court.

39 SECTION 36. IC 31-34-5-1 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.(a) If a child taken  
 41 into custody under IC 31-34-2 is not released, a detention hearing shall  
 42 be held not later than forty-eight (48) hours, excluding Saturdays,

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Sundays, and ~~legal holidays~~, any day on which a legal holiday is observed for state employees as provided in IC 1-1-9, after the child is taken into custody. If the detention hearing is not held, the child shall be released. Notice of the time, place, and purpose of the detention hearing shall be given to the following:

(1) The child.

(2) The child's parent, guardian, or custodian if the person can be located.

(3) Each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-34-4.

(b) A petition alleging that a child described in subsection (a) is a child in need of services shall be filed within five (5) days after the detention hearing, excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees as provided in IC 1-1-9. The initial hearing may be held at the same time as the detention hearing if all necessary parties are available and consent.

(c) The court shall:

(1) provide a person who is required to be notified under subsection (a)(2) or (a)(3) an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;

at the detention hearing.

SECTION 37. IC 31-34-5-1.5, AS AMENDED BY P.L.145-2006, SECTION 292, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.5. (a) This section applies to a child taken into custody under IC 31-34-2.5.

(b) The juvenile court shall hold a detention hearing after an emergency medical services provider takes custody of a child under IC 31-34-2.5. The court shall hold the detention hearing not later than forty-eight (48) hours after the emergency medical services provider takes the child into custody, excluding Saturdays, Sundays, and ~~legal holidays~~, any day on which a legal holiday is observed for state employees as provided in IC 1-1-9. A petition alleging that a child described in subsection (a) is a child in need of services shall be filed within five (5) days after the detention hearing, excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees as provided in IC 1-1-9. The initial hearing may be held at the same time as the detention hearing if all necessary parties are available and consent.

(c) The department may notify the emergency medical services provider that has taken emergency custody of a child under

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IC 31-34-2.5 of the detention hearing. The emergency medical services provider may be heard at the detention hearing.

**(d) The department shall notify each foster parent or other caretaker with whom the child has been temporarily placed under IC 31-34-2.5 of the detention hearing. The court shall:**

**(1) provide a person who is required to be notified under this subsection an opportunity to be heard; and**

**(2) allow a person described in subdivision (1) to make recommendations to the court;**

**at the detention hearing.**

SECTION 38. IC 31-34-11-1, AS AMENDED BY P.L.146-2006, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Except as provided in subsection (b), unless the allegations of a petition have been admitted, the juvenile court shall complete a factfinding hearing not more than sixty (60) days after a petition alleging that a child is a child in need of services is filed in accordance with IC 31-34-9.

(b) The juvenile court may extend the time to complete a factfinding hearing, as described in subsection (a), for an additional sixty (60) days if all parties in the action consent to the additional time.

**(c) If the factfinding hearing is not held immediately after the initial hearing as provided under IC 31-34-10-9, the department shall provide notice of any factfinding hearing to each foster parent or other caretaker with whom the child has been placed for temporary care. The court shall provide a person who is required to be notified under this subsection an opportunity to be heard at the factfinding hearing.**

SECTION 39. IC 31-34-19-1.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.3. (a) The department shall provide notice of the date, time, place, and purpose of the dispositional hearing under this chapter to each:

**(1) party or person for whom a summons is required to be issued under IC 31-34-10-2; and**

**(2) foster parent or other caretaker with whom the child is placed for temporary care;**

**at the time the dispositional hearing is scheduled.**

**(b) The court shall:**

**(1) provide a person required to be notified under subsection (a) an opportunity to be heard; and**

**(2) allow a person described in subdivision (1) to make recommendations to the court;**

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1 **at the dispositional hearing.**

2 SECTION 40. IC 31-34-19-2 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Any  
4 predispositional report may be admitted into evidence to the extent that  
5 the report contains evidence of probative value even if the report would  
6 otherwise be excluded.

7 (b) If a report contains information that should not be released to the  
8 child or the child's parent, guardian, or custodian, a factual summary of  
9 the report may be admitted.

10 (c) The:

11 (1) child;

12 (2) child's parent, guardian, or custodian; and

13 (3) person representing the interests of the state;

14 **and a foster parent or other caretaker who is entitled to notice of**  
15 **the dispositional hearing under section 1.3 of this chapter** shall be  
16 given a fair opportunity to controvert any part of the report admitted  
17 into evidence.

18 SECTION 41. IC 31-34-21-7, AS AMENDED BY P.L.145-2006,  
19 SECTION 322, IS AMENDED TO READ AS FOLLOWS  
20 [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The court shall hold a  
21 permanency hearing:

22 (1) not more than thirty (30) days after a court finds that  
23 reasonable efforts to reunify or preserve a child's family are not  
24 required as described in section 5.6 of this chapter;

25 (2) every twelve (12) months after:

26 (A) the date of the original dispositional decree; or

27 (B) a child in need of services was removed from the child's  
28 parent, guardian, or custodian;

29 whichever comes first; or

30 (3) more often if ordered by the juvenile court.

31 (b) The court shall:

32 (1) make the determination and findings required by section 5 of  
33 this chapter;

34 (2) consider the question of continued jurisdiction and whether  
35 the dispositional decree should be modified;

36 (3) consider recommendations of persons listed under section 4  
37 of this chapter, before approving a permanency plan under  
38 subdivision ~~(4)~~; (5);

39 **(4) consult with the child in person, or through an interview**  
40 **with, or written statement or report submitted by:**

41 **(A) a guardian ad litem or court appointed special**  
42 **advocate for the child;**

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**(B) a case manager; or**

**(C) the person with whom the child is living and who has primary responsibility for the care and supervision of the child;**

**in an age appropriate manner as determined by the court, regarding the proposed permanency plan;**

~~(4)~~ **(5)** consider and approve a permanency plan for the child that complies with the requirements set forth in section 7.5 of this chapter;

~~(5)~~ **(6)** determine whether an existing permanency plan must be modified; and

~~(6)~~ **(7)** examine procedural safeguards used by the department to protect parental rights.

**(c) If the child is at least sixteen (16) years of age and the proposed permanency plan provides for the transition of the child from foster care to independent living, the court shall:**

**(1) require the department to send notice of the permanency hearing to the child, in accordance with section 4(a) of this chapter; and**

**(2) provide to the child an opportunity to be heard and to make recommendations to the court, in accordance with section 4(c) of this chapter.**

~~(c)~~ **(d)** There is a rebuttable presumption that jurisdiction over the child in a child in need of services proceeding continues for not longer than twelve (12) months after the date of the original dispositional decree or twelve (12) months after the child in need of services was removed from the child's parent, guardian, or custodian, whichever occurs first. The state may rebut the presumption and show that jurisdiction should continue by proving that the objectives of the dispositional decree have not been accomplished, that a continuation of the decree with or without any modifications is necessary, and that it is in the child's best interests for the court to maintain its jurisdiction over the child. If the department does not sustain its burden for continued jurisdiction, the court shall:

**(1) direct the department to establish a permanency plan within thirty (30) days; or**

**(2) discharge the child and the child's parent, guardian, or custodian.**

The court may retain jurisdiction to the extent necessary to carry out any orders under subdivision (1).

SECTION 42. IC 31-34-22-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Before a case

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review under IC 31-34-21-2 or hearing under IC 31-34-21-7, the probation department or the ~~county office of family and children~~ **department** shall prepare a report on the progress made in implementing the dispositional decree, including the progress made in rehabilitating the child, preventing placement out-of-home, or reuniting the family.

(b) Before preparing the report required by subsection (a), the probation department or the ~~county office of family and children~~ **department** shall consult a foster parent of the child about the child's progress made while in the foster parent's care.

(c) If modification of the dispositional decree is recommended, the probation department or the ~~county office of family and children~~ **department** shall prepare a modification report containing the information required by IC 31-34-18 and request a formal court hearing.

SECTION 43. IC 31-34-22-2, AS AMENDED BY P.L.146-2006, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Except as provided in subsection (b), a report prepared by the state:

- (1) for the juvenile court's review of the court's dispositional decree; or
- (2) prepared for use at a periodic case review under IC 31-34-21-2 or hearing under IC 31-34-21-7;

shall be made available to the child, and the child's parent, foster parent, guardian, guardian ad litem, court appointed special advocate, ~~or custodian, or any other person who is entitled to receive notice of the periodic case review or permanency hearing under IC 31-34-21-4~~ within a reasonable time after the report's presentation to the court or before the hearing.

(b) If the court determines on the record that the report contains information that should not be released to ~~the child or the child's parent, foster parent, guardian, or custodian,~~ **any person entitled to receive a report under subsection (a),** the court is not required to make the report available to the person as required in subsection (a). However, the court shall provide a copy of the report to the following:

- (1) Each attorney or guardian ad litem representing the child.
- (2) Each attorney representing the child's parent, guardian, or custodian.
- (3) Each court appointed special advocate.

(c) The court may also provide a factual summary of the report to the child or the child's parent, foster parent, guardian, or custodian.

~~(d) In addition to the requirements of subsection (a), any report~~

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prepared by the state for the juvenile court's review shall also be made available to any court appointed special advocate within the same time period and in the same manner as required in the case of a parent under subsection (a). However, if under subsection (a) the court determines on the record that the report contains information that should not be released to the parent, the court shall still provide a copy of the report to any court appointed special advocate.

SECTION 44. IC 31-34-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Any report may be admitted into evidence to the extent that the report contains evidence of probative value even if the evidence would otherwise be excluded.

(b) If a report contains information that should not be released to the child or the child's parent, guardian, ~~or~~ custodian, **or any other person who is entitled to receive a report under section 2 of this chapter**, a factual summary of the report may be admitted.

(c) The:

- (1) child;
- (2) child's parent, guardian, or custodian; and
- (3) person representing the interests of the state;

**and any other person who is entitled to receive a report under section 2 of this chapter** shall be given a fair opportunity to controvert any part of the report admitted into evidence.

SECTION 45. IC 31-34-23-4, AS AMENDED BY P.L.129-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. If a hearing is required, IC 31-34-18 governs the preparation and use of a modification report. The report shall be prepared if the state or any person other than the child or the child's parent, guardian, guardian ad litem, court appointed special advocate, or custodian is requesting the modification. **Notice of any hearing under this chapter shall be given in accordance with IC 31-34-19-1.3.**

SECTION 46. IC 31-37-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Notice of the time, place, and purpose of a detention hearing shall be given to:

- (1) the child; ~~and~~
- (2) the child's parent, guardian, or custodian if the person can be located; ~~and~~
- (3) **each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-37-5.**

(b) The court shall:

- (1) provide a person who is required to be notified under

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1           **subsection (a)(2) or (a)(3) an opportunity to be heard; and**  
 2           **(2) allow a person described in subdivision (1) to make**  
 3           **recommendations to the court;**  
 4           **at the detention hearing.**

5           SECTION 47. IC 31-37-12-2 IS AMENDED TO READ AS  
 6           FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The juvenile  
 7           court shall hold an initial hearing on each petition.

8           (b) The juvenile court shall set a time for the initial hearing. A  
 9           summons shall be issued for the following:

10           (1) The child.

11           (2) The child's parent, guardian, custodian, or guardian ad litem.

12           (3) Any other person necessary for the proceedings.

13           (c) A copy of the petition must accompany each summons. The  
 14           clerk shall issue the summons under Rule 4 of the Indiana Rules of  
 15           Trial Procedure.

16           **(d) The prosecuting attorney or the probation department of the**  
 17           **juvenile court shall provide notice of the time, place, and purpose**  
 18           **of the initial hearing scheduled or held under this section to each**  
 19           **foster parent or other caretaker with whom the child has been**  
 20           **placed for temporary care under IC 31-37-5 or IC 31-37-7. The**  
 21           **court shall:**

22           **(1) provide a:**

23           **(A) person for whom summons is required to be issued**  
 24           **under subsection (b); and**

25           **(B) person required to be notified under this subsection;**  
 26           **an opportunity to be heard; and**

27           **(2) allow a person described in subdivision (1) to make**  
 28           **recommendations to the court;**

29           **at the initial hearing.**

30           SECTION 48. IC 31-37-13-1 IS AMENDED TO READ AS  
 31           FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Unless the  
 32           allegations of a petition have been admitted, the juvenile court shall  
 33           hold a factfinding hearing.

34           **(b) If the factfinding hearing is not held immediately after the**  
 35           **initial hearing as provided under IC 31-37-12-9, the prosecuting**  
 36           **attorney or probation department of the juvenile court shall**  
 37           **provide notice of any factfinding hearing to each foster parent or**  
 38           **other caretaker with whom the child has been placed for**  
 39           **temporary care. The court shall provide a person required to be**  
 40           **notified under this subsection an opportunity to be heard at the**  
 41           **factfinding hearing.**

42           SECTION 49. IC 31-37-18-1.3 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2007]: **Sec. 1.3. (a) The prosecuting attorney or probation department of the juvenile court shall provide notice of the date, time, place, and purpose of the dispositional hearing under this chapter to each:**

(1) party or person for whom a summons is required to be issued under IC 31-37-12-2; and

(2) foster parent or other caretaker with whom the child is placed for temporary care;

**at the time the dispositional hearing is scheduled.**

**(b) The court shall:**

(1) provide a person who is required to be notified under subsection (a) an opportunity to be heard; and

(2) allow a person described in subdivision (1) to make recommendations to the court;

**at the dispositional hearing.**

SECTION 50. IC 31-37-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2. (a) Any predispositional report may be admitted into evidence to the extent that the report contains evidence of probative value even if the report would otherwise be excluded.**

**(b) If a report contains information that should not be released to the child or the child's parent, guardian, or custodian, a factual summary of the report may be admitted.**

**(c) The:**

(1) child;

(2) child's parent, guardian, or custodian; and

(3) person representing the interests of the state;

**and a foster parent or other caretaker who is entitled to notice of the dispositional hearing under section 1.3 of this chapter shall be given a fair opportunity to controvert any part of the report admitted into evidence.**

SECTION 51. IC 31-37-20-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4.5. (a) At least ten (10) days before a hearing under section 2 or 3 of this chapter, the probation department shall send notice of the hearing to each of the following:**

(1) The child's parent, guardian, or custodian.

(2) An attorney who has entered an appearance on behalf of the child's parent, guardian, or custodian.

(3) The child or an attorney who has entered an appearance

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on behalf of the child.

(4) A prospective adoptive parent named in a petition for adoption of the child filed under IC 31-19-2 if:

(A) each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and manner required by IC 31-19-9 and filed with the county office;

(B) the court having jurisdiction in the adoption case has determined under any applicable provision of IC 31-19-9 that consent to adoption is not required from a parent, guardian, or custodian; or

(C) a petition to terminate the parent-child relationship between the child and any parent who has not executed a written consent to adoption under IC 31-19-9-2 has been filed under IC 31-35 and is pending.

(5) Any other person who:

(A) the probation department has knowledge is currently providing care for the child; and

(B) is not required to be licensed under IC 12-17.2 or IC 31-27 to provide care for the child.

(6) Any other suitable relative or person whom the probation department knows has had a significant or caretaking relationship to the child.

(b) The court shall provide to a person described in subsection (a) an opportunity to be heard and to make any recommendations to the court in a hearing under section 2 or 3 of this chapter. The right to be heard and to make recommendations under this subsection includes:

(1) the right of a person described in subsection (a) to submit a written statement to the court that, if served upon all parties to the delinquency proceeding and the persons described in subsection (a), may be made a part of the court record; and

(2) the right to present oral testimony to the court and cross-examine any of the witnesses at the hearing.

(c) This section does not exempt the probation department from sending a notice of the review to each party to the delinquency proceeding.

(d) The court shall continue the hearing if, at the time set for the hearing, the probation department has not provided the court with a signed verification that any person required to be notified under this section has been notified in the manner stated in the verification, unless the person appears for the hearing.

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SECTION 52. IC 31-37-21-2, AS AMENDED BY P.L.146-2006, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Except as provided by subsection (b), a report prepared by the state:

(1) for the juvenile court's review of the court's dispositional decree; or

(2) for use at a periodic case review or hearing under IC 31-37-20-2 or IC 31-37-20-3;

shall be made available to the child, and the child's parent, foster parent, guardian, guardian ad litem, custodian, ~~or~~ court appointed special advocate, **or any other person who is entitled to receive notice under IC 31-37-20-4.5** within a reasonable time after the report's presentation to the court or before the hearing.

(b) If the court determines on the record that the report contains information that should not be released to ~~the child or the child's parent, foster parent, guardian, or custodian,~~ **any person who is entitled to receive a report under subsection (a),** the court is not required to make the report available to the person as required under subsection (a). However, the court shall provide a copy of the report to the following:

(1) Each attorney or a guardian ad litem representing the child.

(2) Each attorney representing the child's parent, guardian, or custodian.

(3) A court appointed special advocate.

(c) The court may also provide a factual summary of the report to the child or the child's parent, foster parent, guardian, or custodian.

(d) ~~In addition to the requirements of subsection (a), any report prepared by the state for the juvenile court's review shall also be made available to any court appointed special advocate within the same time period and in the same manner as required in the case of a parent under subsection (a). However, if under subsection (a) the court determines on the record that the report contains information that should not be released to the parent, the court shall still provide a copy of the report to any court appointed special advocate.~~

SECTION 53. IC 31-37-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Any report may be admitted into evidence to the extent that the report contains evidence of probative value even if the evidence would otherwise be excluded.

(b) If a report contains information that should not be released to the child or the child's parent, guardian, ~~or~~ custodian, **or any other person who is entitled to receive a report under section 2 of this chapter,**

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a factual summary of the report may be admitted.

(c) The:

(1) child;

(2) child's parent, guardian, or custodian; and

(3) person representing the interests of the state;

**and any other person who is entitled to receive a report under section 2 of this chapter** shall be given a fair opportunity to controvert any part of the report admitted into evidence.

SECTION 54. IC 31-37-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. If a hearing is required, IC 31-37-17 governs the preparation and use of a modification report. The report shall be prepared if the state or any person other than the child or the child's parent, guardian, guardian ad litem, or custodian is requesting the modification. **Notice of any hearing under this chapter shall be given in accordance with IC 31-37-18-1.3.**

SECTION 55. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2007]: IC 31-9-2-128; IC 31-33-8-14; IC 31-33-12; IC 31-33-13; IC 31-33-17; IC 31-33-19; IC 31-33-20; IC 31-34-8-4.

SECTION 56. [EFFECTIVE JULY 1, 2007] (a) **Notwithstanding IC 31-33-26-13 and IC 31-33-26-16(c), both as added by this act, the department of child services is not required to adopt rules described under those statutes until July 1, 2011.**

(b) **Notwithstanding IC 31-33-26-13, as added by this act, the department of child services shall adopt written policies governing administrative reviews and hearings relating to substantiated determinations of child abuse or neglect under IC 31-33-26-9, as added by this act, including the availability of judicial review of final decisions of the department of child services under IC 4-21.5-5. Rules adopted by the department under IC 31-33-26-13, as added by this act, supersede written policies governing the same subject.**

(c) **Notwithstanding IC 31-33-26-16(c), as added by this act, the department of child services shall adopt written policies governing the disclosure of information under IC 31-33-26-16, as added by this act. Rules adopted by the department of child services governing the disclosure of information under IC 31-33-26-16, as added by this act, supersede written policies governing the same subject.**

(d) **This SECTION expires July 2, 2011.**

SECTION 57. **An emergency is declared for this act.**

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## COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 328, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 6 and 7, begin a new line block indented and insert:

**"(4) A person for whom a national criminal history background check is required for purposes of placement of a child in a foster family home, a prospective adoptive home, or the home of a relative or other caretaker, or for purposes of a report concerning an adoption as required by IC 31-19-8."**

Page 2, line 19, delete ":".

Page 2, line 20, strike "(1)".

Page 2, line 20, delete ";" and insert ",".

Page 2, line 21, after "or" insert **"that"**.

Page 2, line 22, strike "(2)".

Run in lines 19 through 24.

Page 2, line 27, strike "applicant" and insert **"person who is the subject of a request"**.

Page 2, line 27, delete "of" and insert **"of:**

**(1)"**.

Page 2, line 28, after "IC 20-26-5-11" insert ";

**(2) in the case of a foster family home, an offense described in IC 31-27-4-13(a);**

**(3) in the case of a prospective adoptive home, an offense described in IC 31-19-11-1(c);**

**(4) any other felony; or**

**(5) any misdemeanor;"**.

Page 2, line 28, begin a new line blocked left beginning with "and".

Page 4, line 16, after "age" insert **"and who is"**.

Page 4, line 21, reset in roman "or".

Page 4, strike lines 22 through 27.

Page 4, line 28, strike "IC 31-27;"

Page 4, line 28, delete "or".

Page 4, line 29, delete "(iii)" and insert **"(ii)"**.

Page 4, line 33, strike "national".

Page 4, line 34, after "check" insert **"of both national and state records data bases"**.

Page 4, line 35, after "with" insert **"IC 10-13-3-27 and"**.

Page 4, line 39, strike "and".

Page 5, line 1, after "resided" insert **"within the previous five (5)"**

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years; and

(3) request information concerning any substantiated report of child abuse or neglect relating to a person described in subdivision (1)(A) that is contained in a national registry of substantiated cases of child abuse or neglect that is established and maintained by the United States Department of Health and Human Services, to the extent that the information is accessible pursuant to 42 U.S.C. 16990 and any applicable regulations or policies of the Department of Health and Human Services.

SECTION 6. IC 31-9-2-26, AS AMENDED BY P.L.145-2006, SECTION 184, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. "County office", for purposes of ~~IC 31-25 through IC 31-40~~ IC 31 and the juvenile law, refers to a county office of family and children; **the department of child services established by IC 31-25-1-1.**"

Page 5, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 9. IC 31-9-2-58.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 58.3. "Index", for purposes of IC 31-33-26, means the child protection index established under IC 31-33-26-2."

Page 6, line 6, strike "(a)".

Page 6, line 9, strike "(b) "Registry", for purposes of IC 31-33, refers to the child".

Page 6, line 10, delete "protection".

Page 6, line 10, strike "registry established by the department under".

Page 6, delete line 11.

Page 10, line 11, after "volunteer" insert ". However, a national fingerprint based criminal history background check defined in IC 31-9-2-22.5(1)(B) and required under subsection (d)(3) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer".

Page 10, line 12, delete "However, if" and insert "If".

Page 10, line 18, after "(i)" insert "An applicant or licensee may provisionally employ an individual or assign a volunteer for whom a criminal history check is required under subsection (d)(3) during the period after the process of requesting national fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or

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licensee. If the determination is not received by not later than the ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual under subsection (d)(3), the applicant or licensee shall consider the following:

- (1) The training time required by an employee or a volunteer.
- (2) The safety and security of the children under the supervision of the applicant or licensee.
- (3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.
- (4) The staffing concerns of the applicant or licensee.
- (5) Any other factor relating to the safety and security of the applicant or licensee's operations.

(j)".

Page 10, line 25, delete "(j)" and insert "(k)".

Page 11, line 1, strike "an employee of the".

Page 11, strike lines 2 through 5.

Page 11, line 6, strike "the direct supervision of the applicant" and insert "**or the director or manager of a facility where children will be placed by the applicant**".

Page 11, line 19, delete "licensee" and insert "applicant".

Page 11, line 23, after "(b)" insert "**An application for a license may also be denied if an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:**

- (1) A felony described in IC 31-27-4-13(a); or
- (2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

- (1) The length of time that has passed since the disqualifying

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conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d)".

Page 11, line 24, delete "is" and insert "**could be**".

Page 11, line 29, strike "require" and insert "**constitute a sufficient basis for the**".

Page 11, between lines 29 and 30, begin a new paragraph and insert: "**(e) The department may adopt rules to implement this section**".

Page 12, line 10, after "Sec. 31." insert "**(a)**".

Page 12, line 21, strike "an employee of the".

Page 12, strike lines 22 through 25.

Page 12, line 26, strike "the direct supervision of the licensee" and insert "**or the director or manager of a facility where children will be placed by the licensee**".

Page 12, after line 42, begin a new paragraph and insert:

**"(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has been convicted of any of the following:**

(1) A felony described in IC 31-27-4-13(a); or

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

**(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:**

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

**(d) Notwithstanding subsection (b), if:**

(1) A license could be revoked due to a criminal conviction of an employee or a volunteer of the licensee; and

(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction;

**the criminal conviction of the former employee or former**

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**volunteer does not constitute a sufficient basis for the revocation of a license.**

**(e) The department may adopt rules to implement this section."**

Page 13, line 30, reset in roman "household members who are at least fourteen (14)".

Page 13, line 31, reset in roman "years of age".

Page 13, line 31, delete "persons at least eighteen (18) years of age residing" and insert ".".

Page 13, delete lines 32 through 35.

Page 14, line 20, delete "A" and insert **"With the exception of a national fingerprint based criminal history background check (as defined in IC 31-9-2-22.5(1)(B)) and required under subsection (e)(1), a"**.

Page 14, line 25, after "(e)(2)" insert **"A national fingerprint based criminal history background check (as defined in IC 31-9-2-22.5(1)(B)) and required under subsection (e)(1) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer."**

Page 14, line 32, after "(j)" insert **"An applicant or licensee may provisionally employ an individual or assign a volunteer for whom a criminal history check is required under subsection (e)(3) during the period after the process of requesting national fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received by not later than the ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual under subsection (e)(3), the applicant or licensee shall consider the following:**

- (1) The training time required by an employee or a volunteer.**
- (2) The safety and security of the children under the supervision of the applicant or licensee.**
- (3) The safety and security of the other staff and volunteers**

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working under the supervision of the applicant or licensee.

(4) The staffing concerns of the applicant or licensee.

(5) Any other factor relating to the safety and security of the applicant or licensee's operations.

(k)".

Page 14, line 39, delete "(k)" and insert "(l)".

Page 15, line 17, strike "an employee of the".

Page 15, strike lines 18 through 19.

Page 15, line 20, strike "applicant, or a volunteer".

Page 15, line 20, delete "or person residing in the residence".

Page 15, line 20, strike "of".

Page 15, strike lines 21 through 22.

Page 15, line 23, strike "applicant,".

Page 15, line 40, after "(b)" insert **"An application for a license may also be denied if an adult who resides in the residence of the applicant or an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:**

(1) A felony described in IC 31-27-4-13(a); or

(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

(1) The length of time that has passed since the disqualifying conviction.

(2) The severity, nature, and circumstances of the offense.

(3) Evidence of rehabilitation.

(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d)".

Page 15, line 41, strike "is" and insert **"could be"**.

Page 16, line 6, strike "require" and insert **"constitute a sufficient basis for the"**.

Page 16, between lines 7 and 8, begin a new paragraph and insert: **"(e) The department may adopt rules to implement this section"**.

Page 16, line 30, after "32." insert "(a)".

Page 17, line 1, strike "an employee of the".

Page 17, strike lines 2 through 5.

Page 17, line 6, strike "direct supervision of the applicant,".

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Page 17, line 6, delete "or a person at least eighteen".

Page 17, line 7, delete "18 years of age who is residing in the home of the licensee".

Page 17, line 7, strike "of" and insert "**for**".

Page 17, between lines 20 and 21 begin a new paragraph and insert:

**"(b) A license may also be revoked if an adult who resides in the residence of the licensee or an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has been convicted of any of the following:**

**(1) A felony described in IC 31-27-4-13(a); or**

**(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.**

**(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:**

**(1) The length of time that has passed since the disqualifying conviction.**

**(2) The severity, nature, and circumstances of the offense.**

**(3) Evidence of rehabilitation.**

**(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.**

**(d) Notwithstanding subsection (b), if:**

**(1) A license could be revoked due to a criminal conviction of an employee or a volunteer of the licensee; and**

**(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction;**

**the criminal conviction of the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.**

**(e) The department may adopt rules to implement this section."**

Page 17, delete lines 38 through 42, begin a new paragraph and insert:

**"(d) The department on behalf of an applicant, or, at the discretion of the department, an applicant, shall ~~(1)~~ conduct a criminal history check of the following:**

**~~(A)~~ (1) Each individual who is an applicant. ~~and~~**

**~~(B)~~ (2) The director or manager of a facility where children will be placed. ~~and~~".**

Page 18, strike lines 1 through 2.

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Page 18, between lines 2 and 3, begin a new line block indented and insert:

**"(3) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant."**

Page 18, line 3, strike "An" and insert **"If the applicant conducts a criminal history check under subsection (d), the"**.

Page 18, line 3, after "shall" insert ":".

Page 18, line 3, strike "do the following:".

Page 18, strike lines 4 through 9.

Page 18, line 10, strike "(2)" and insert **"(1)"**.

Page 18, line 10, delete "Maintain" and insert "maintain".

Page 18, line 11, delete "the applicant" and insert **"it"**.

Page 18, line 12, delete "." and insert **"; and"**.

Page 18, line 13, delete "(3) Submit" and insert **"(2) submit"**.

Page 18, line 14, delete "who is the subject" and insert **"described in subsection (d)(1) through (d)(3)."**

Page 18, line 15, delete "of a criminal history check." begin a new paragraph and insert:

**"(f)"**.

Page 18, line 16, after "applicant" insert **"under subsection (d)"**.

Page 18, delete lines 18 through 34, begin a new line block indented and insert:

**"(1) determine whether the subject of a national fingerprint based criminal history check has a record of a conviction for:**

**(A) a felony; or**

**(B) a misdemeanor relating to the health and safety of a child;**

**(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction contained in the national criminal history record information;**

**(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and**

**(4) maintain a record of every report and all information it receives concerning a person described in subsection (d)."**

Page 18, line 35, delete "(f)" and insert **"(g)"**.

Page 18, line 35, delete "(g)" and insert **"(h)"**.

Page 18, line 36, delete "under this section" and insert **"described in subsection (d)"**.

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Page 18, line 38, delete "(g)" and insert "(h)".

Page 18, line 38, delete "this section" and insert "**subdivision (d)(2) or (d)(3)**".

Page 18, line 40, after "employed" insert "**or assigned as a volunteer**".

Page 18, line 40, delete "this section" and insert "**subsection (d)(3). However, a national fingerprint based criminal history background check defined in IC 31-9-2-22.5(1)(B) and required under subsection (e) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer to a position described in subsection (e)**".

Page 18, line 40, delete "However, if" and insert "**If**".

Page 19, line 4, delete "(h)" and insert "**(i) An applicant or licensee may provisionally employ an individual or assign a volunteer for whom a criminal history check is required under subsection (d)(3) during the period after the process of requesting national fingerprint based criminal history background check information has been initiated by or on behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received by not later than the ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or employee of the applicant or licensee who has been the subject of a completed and approved criminal history check. In determining whether to provisionally hire or assign as a volunteer an individual under subsection (d)(3), the applicant or licensee shall consider the following:**

- (1) The training time required by an employee or a volunteer.**
- (2) The safety and security of the children under the supervision of the applicant or licensee.**
- (3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.**
- (4) The staffing concerns of the applicant or licensee.**
- (5) Any other factor relating to the safety and security of the applicant or licensee's operations.**

**(j)".**

Page 19, line 11, delete "(i)" and insert "**(k)**".

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Page 19, line 39, strike "an employee of the".

Page 19, strike lines 40 through 42.

Page 20, strike line 1.

Page 20, line 2, strike "the direct supervision of the applicant" and insert **"or the director or manager of a facility where children will be placed by the applicant"**.

Page 20, line 15, delete "licensee" and insert **"applicant"**.

Page 20, line 19, after "(b)" insert **"An application for a license may also be denied if an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:**

**(1) A felony described in IC 31-27-4-13(a).**

**(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.**

**(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:**

**(1) The length of time that has passed since the disqualifying conviction.**

**(2) The severity, nature, and circumstances of the offense.**

**(3) Evidence of rehabilitation.**

**(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.**

**(d)".**

Page 20, line 20, strike "is" and insert **"could be"**.

Page 20, line 25, strike "require" and insert **"constitute a sufficient basis for the"**.

Page 20, between lines 25 and 26, begin a new paragraph and insert:

**"(e) The department may adopt rules to implement this section."**

Page 21, line 5, after "31." insert **"(a)"**.

Page 21, line 16, strike "an employee of the".

Page 21, strike lines 17 through 20.

Page 21, line 21, strike "the direct supervision of the licensee" and insert **"or the director or manager of a facility where children will be placed by the licensee"**.

Page 21, between lines 37 and 38, begin a new paragraph and insert:

**"(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the**

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licensee has been convicted of any of the following:

- (1) A felony described in IC 31-27-4-13(a).
- (2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:

- (1) The length of time that has passed since the disqualifying conviction.
- (2) The severity, nature, and circumstances of the offense.
- (3) Evidence of rehabilitation.
- (4) The duties and qualifications required for the proposed employment positions or volunteer assignment.

(d) Notwithstanding subsection (b), if:

- (1) A license could be revoked due to a criminal conviction of an employee or a volunteer of the licensee; and
- (2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction;

the criminal conviction of the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.

(e) The department may adopt rules to implement this section."

Page 22, line 2, strike "shall" and insert "must".

Page 22, delete lines 13 through 17, begin a new paragraph and insert:

"(d) The department on behalf of an applicant, or, at the discretion of the department, an applicant, shall ~~(1)~~ conduct a criminal history check of the following:

- ~~(A)~~ (1) Each individual who is an applicant. ~~and~~
- ~~(B)~~ (2) The director or manager of a facility where children will be placed. ~~and~~".

Page 22, strike lines 18 through 19.

Page 22, between lines 19 and 20, begin a new line block indented and insert:

"(3) An employee or a volunteer of the applicant who has or will have direct contact on a regular and continuing basis with a child who is or will be placed in a facility operated by the applicant."

Page 22, delete lines 20 through 30, begin a new paragraph and insert:

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**"(e) ~~Am~~ If the applicant conducts a criminal history check under subsection (d), the applicant shall: do the following:**

**(1) Conduct a criminal history check of the applicant's:**

**(A) employees; and**

**(B) volunteers;**

**who have or will have direct contact, on a regular and continuing basis, with children who are or will be under the direct supervision of the applicant.**

**(2) (1) maintain records of each the information it receives concerning each individual who is the subject of a criminal history check; and**

**(2) submit to the department a copy of the information it receives concerning each person described in subsection (d)(1) through (d)(3)."**

Page 22, strike lines 31 through 33.

Page 22, between lines 33 and 34, begin a new paragraph and insert:

**"(f) If the department conducts a criminal history check on behalf of an applicant under subsection (d), the department shall:**

**(1) determine whether the subject of a national fingerprint based criminal history check has a record of a conviction for:**

**(A) a felony; or**

**(B) a misdemeanor relating to the health and safety of a child;**

**(2) notify the applicant of the determination under subdivision (1) without identifying a specific offense or other identifying information concerning a conviction contained in the national criminal history record information;**

**(3) submit to the applicant a copy of any state limited criminal history report that the department receives on behalf of any person described in subsection (d); and**

**(4) maintain a record of every report and all information the department receives concerning a person described in subsection (d).**

**(g) Except as provided in subsection (h), a criminal history check described in subsection (d) is required only at the time an application for a new license or the renewal of an existing license is submitted.**

**(h) A criminal history check required under subsection (d)(2) or (d)(3) must be completed on or before the date on which the subject of the check is employed or assigned as a volunteer in a position described in subsection (d)(3). However, if a person described in this subsection has been the subject of a criminal history check (as**

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described in IC 31-9-2-22.5) that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required."

Page 22, line 34, strike "(g)" and insert "(i)".

Page 22, between lines 40 and 41, begin a new paragraph and insert:

**"(j) A person who is the subject of a criminal history check conducted in accordance with this section may request the state police department to provide the person with a copy of any state or national criminal history record information report concerning the person."**

Page 23, line 12, strike "an employee of the".

Page 23, strike lines 13 through 16.

Page 23, line 17, strike "the direct supervision of the licensee" and insert **"or the director or manager of a facility where children will be placed by the licensee"**.

Page 23, line 30, delete "licensee".

Page 23, line 34, after "(b)" insert **"An application for a license may also be denied if an employee or volunteer of the applicant who has direct contact on a regular and continuous basis with children who are under the direct supervision of the applicant has been convicted of any of the following:**

**(1) A felony described in IC 31-27-4-13(a).**

**(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.**

**(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:**

**(1) The length of time that has passed since the disqualifying conviction.**

**(2) The severity, nature, and circumstances of the offense.**

**(3) Evidence of rehabilitation.**

**(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.**

**(d)".**

Page 23, line 35, delete "is" and insert **"could be"**.

Page 23, line 40, strike "require" and insert **"constitute a sufficient basis for the"**.

Page 23, between lines 40 and 41, begin a new paragraph and insert:

**"(e) The department may adopt rules to implement this section".**

Page 24, line 17, after "28." insert **"(a)"**.

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Page 24, line 28, strike "an employee of the".

Page 24, strike lines 29 through 32.

Page 24, line 33, strike "the direct supervision of the licensee" and insert **"or the director or manager of a facility where children will be placed by the licensee"**.

Page 25, between lines 7 and 8, begin a new paragraph and insert:

**"(b) A license may also be revoked if an employee or volunteer of the licensee who has direct contact on a regular and continuous basis with children who are under the direct supervision of the licensee has been convicted of any of the following:**

**(1) A felony described in IC 31-27-4-13(a).**

**(2) Any other felony or a misdemeanor relating to the health and safety of a child, unless the licensee is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.**

**(c) In determining whether to grant a waiver under subsection (b), the department shall consider the following factors:**

**(1) The length of time that has passed since the disqualifying conviction.**

**(2) The severity, nature, and circumstances of the offense.**

**(3) Evidence of rehabilitation.**

**(4) The duties and qualifications required for the proposed employment positions or volunteer assignment.**

**(d) Notwithstanding subsection (b), if:**

**(1) A license could be revoked due to a criminal conviction of an employee or a volunteer of the licensee; and**

**(2) the department determines that the employee or volunteer has been dismissed by the licensee within a reasonable time after the licensee became aware of the conviction;**

**the criminal conviction of the former employee or former volunteer does not constitute a sufficient basis for the revocation of a license.**

**(e) The department may adopt rules to implement this section."**

Page 25, between lines 7 and 8, begin a new paragraph and insert:

**"SECTION 33. IC 31-33-8-13, AS AMENDED BY P.L.234-2005, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. Whenever:**

**(1) an arrest relating to child abuse or neglect is made; the law enforcement agency that makes the arrest;**

**(2) criminal charges relating to child abuse or neglect are filed; the court in which the charges are filed;**

**(3) a child in need of services determination is made; the**

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department; or

(4) a court approves a program of informal adjustment under IC 31-34-8 arising out of a child abuse or neglect report; the department; or

(5) a person who is accused of child abuse or neglect:

(A) enters into a services referral agreement; and

(B) fails to substantially comply with the terms of the services referral agreement;

under IC 31-33-13, the department;

shall transmit to the registry, not more than five (5) working days after the circumstances described by subdivisions (1) through (5) occur; the relevant a court finds that a child is a child in need of services on the basis of a child abuse or neglect report classified as substantiated under section 12 of this chapter, the department shall enter into the index of copy of the court's judgment."

Page 27, line 19, delete "Registry" and insert "**Index**".

Page 27, line 28, delete ""registry"" and insert ""**index**"".

Page 27, line 29, delete "registry" and insert "**index**".

Page 27, line 31, delete "registry" and insert "**index**".

Page 27, line 36, delete "registry, the registry" and insert "**index, the index**".

Page 28, line 8, delete "registry" and insert "**index**".

Page 28, line 19, delete "registry's" and insert "**index's**".

Page 28, line 24, delete "registry" and insert "**index**".

Page 28, line 27, delete "registry, the registry" and insert "**index, the index**".

Page 28, line 35, delete "registry" and insert "**index**".

Page 28, line 42, delete "registry" and insert "**index**".

Page 29, line 1, delete "registry" and insert "**index**".

Page 29, line 3, delete "registry" and insert "**index**".

Page 29, line 25, delete "registry." and insert "**index.**".

Page 29, line 34, delete "registry" and insert "**index**".

Page 29, line 36, delete "registry's" and insert "**index's**".

Page 29, line 37, delete "registry" and insert "**index**".

Page 29, line 38, delete "registry" and insert "**index**".

Page 30, line 21, delete "registry," and insert "**index,**".

Page 30, line 28, delete "registry." and insert "**index.**".

Page 30, line 39, delete "the perpetrator receives".

Page 30, line 39, after "notice" insert "**is served on the perpetrator as provided in IC 4-21.5-3-1(b). Time shall be computed as provided in IC 4-21.5-3-2.**".

Page 31, line 19, after "under" insert "**section 15 of**".

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Page 31, line 20, delete "The" and insert "**The department shall maintain the**".

Page 31, line 20, delete "must, to".

Page 31, line 21, delete "the extent possible, be maintained".

Page 31, line 26, delete "registry and insert **"index"**".

Page 32, line 6, delete "whose report has been reviewed by a court".

Page 32, line 7, after "chapter" insert "**if a court has determined that:**

**(1) the alleged child abuse or neglect did not occur; or**

**(2) the person was not a perpetrator of the alleged child abuse or neglect".**

Page 32, line 24, delete "registry" and insert **"index"**.

Page 32, line 33, delete "registry" and insert **"index"**.

Page 32, line 36, delete "registry" and insert **"index"**.

Page 33, between lines 7 and 8, begin a new paragraph and insert:

**"(b) The department shall amend a substantiated report contained in the index by deleting the name of an alleged perpetrator if:**

**(1) a court having jurisdiction over a child in need of services proceeding; or**

**(2) an administrative hearing officer under this chapter; finds that the person was not a perpetrator of the child abuse or neglect that occurred."**

Page 33, line 8, delete "(b)" and insert **"(c)"**.

Page 33, line 12, delete "(c)" and insert **"(d)"**.

Page 33, line 13, delete "registry" and insert **"index"**.

Page 33, line 14, delete "(d)" and insert **"(e)"**.

Page 33, line 15, delete "registry" and insert **"index"**.

Page 33, line 16, delete "registry." and insert **"index."**.

Page 33, line 18, delete "registry" and insert **"index"**.

Page 33, delete lines 23 through 42.

Page 34, delete lines 1 through 4.

Page 34, line 5, delete "(4)" and insert **"(2)"**.

Page 34, line 20, delete "(5)" and insert **"(3)"**.

Page 34, line 21, delete "registry" and insert **"index"**.

Page 34, line 25, delete "(6)" and insert **"(4)"**.

Page 34, line 27, delete "registry." and insert **"index."**.

Page 34, line 28, delete "(7)" and insert **"(5)"**.

Page 34, line 34, delete "(8)" and insert **"(6)"**.

Page 34, line 40, delete "(9)" and insert **"(7)"**.

Page 35, line 6, delete "(10)" and insert **"(8)"**.

Page 35, line 8, delete "registry" and insert **"index"**.

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Page 35, line 13, delete "(11)" and insert "(9)".

Page 35, line 14, delete "registry" and insert "index".

Page 35, line 17, delete "registry;" and insert "index;".

Page 35, delete lines 21 through 34 and insert:

**"(12) To determine the eligibility of a child care provider to receive a voucher payment (as defined in IC 12-17.2-3.5-3), the division of family resources may use information contained in the index concerning whether a child has been found by a court to be a child in need of services based on a report of child abuse or neglect naming an individual described in IC 12-17.2-3.5-4.1(a) as a perpetrator."**

Page 36, line 3, delete "registry" and insert "index".

Page 36, line 33, strike "legal" and insert **"any day on which a legal holiday is observed for state employees as provided in IC 1-1-9."**

Page 36, line 34, strike "holidays."

Page 36, delete lines 41 through 42.

Page 37, delete lines 1 through 13.

Page 47, line 19, after "IC 31-37-24" insert "; IC 31-34-8-4".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 328 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

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#### SENATE MOTION

Madam President: I move that Senate Bill 328 be amended to read as follows:

Page 8, line 10, delete "may" and insert **"shall"**.

Page 8, line 15, after "subsection" insert **"if the existing entity has the capacity to satisfy the responsibilities described in subsection (c) and the department ensures that the existing entity will satisfy the responsibilities described in subsection (c)"**.

(Reference is to SB 328 as printed February 16, 2007.)

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## SENATE MOTION

Madam President: I move that Senators Sipes and Breaux be added as coauthors of Engrossed Senate Bill 328.

LAWSON C

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 COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred Senate Bill 328, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 10-13-3-27.5, AS AMENDED BY P.L.146-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27.5. (a) If:

- (1) exigent circumstances require the emergency placement of a child; and
- (2) the department will be unable to obtain criminal history information from the Interstate Identification Index before the emergency placement is scheduled to occur;

upon request of the department of child services established by IC 31-25-1-1, a caseworker, or a juvenile probation officer, the department may conduct a national name based criminal history record check of each individual **who is at least eighteen (18) years of age and** who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location. The department shall promptly transmit a copy of the report it receives from the Interstate Identification Index to the agency or person that submitted a request under this section.

(b) Not later than seventy-two (72) hours after the department of child services, the caseworker, or the juvenile probation officer receives the results of the national name based criminal history record check, the department of child services, the caseworker, or the juvenile probation officer shall provide the department with a complete set of fingerprints for each individual **who is at least eighteen (18) years of age and** who is currently residing in the location designated as the out-of-home placement at the time the child will be placed in the location. The department shall:

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(1) use fingerprint identification to positively identify each individual ~~who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location;~~ **whose fingerprints are provided to the department under this subsection;** or

(2) submit the fingerprints to the Federal Bureau of Investigation not later than fifteen (15) calendar days after the date on which the national name based criminal history record check was conducted.

The child shall be removed from the location designated as the out-of-home placement if an individual **who is at least eighteen (18) years of age and** who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location fails to provide a complete set of fingerprints to the department of child services, the caseworker, or the juvenile probation officer.

(c) The department and the person or agency that provided fingerprints shall comply with all requirements of 42 U.S.C. 5119a and any other applicable federal law or regulation regarding:

- (1) notification to the subject of the check; and
- (2) the use of the results obtained based on the check of the person's fingerprints.

(d) If an out-of-home placement is denied as the result of a national name based criminal history record check, an individual who is ~~currently residing in the location designated as the out-of-home placement at the time the child will reside in the location~~ **the subject of the name based criminal history record check** may contest the denial by submitting to the department of child services, the caseworker, or the juvenile probation officer:

- (1) a complete set of the individual's fingerprints; and
- (2) written authorization permitting the department of child services, the caseworker, or the juvenile probation officer to forward the fingerprints to the department for submission to the Federal Bureau of Investigation;

not later than five (5) days after the out-of-home placement is denied.

(e) The:

- (1) department; and
- (2) Federal Bureau of Investigation;

may charge a reasonable fee for processing a national name based criminal history record check. The department shall adopt rules under IC 4-22-2 to establish a reasonable fee for processing a national name based criminal history record check and for collecting fees owed under this subsection.

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(f) The:

- (1) department of child services, for an out-of-home placement arranged by a caseworker or the department of child services; or
- (2) juvenile court, for an out-of-home placement ordered by the juvenile court;

shall pay the fee described in subsection (e), arrange for fingerprinting, and pay the costs of fingerprinting, if any."

Page 3, line 39, delete "IC 31-25-2-20" and insert "**IC 31-25-2-20.4**".

Page 5, line 8, after "age" insert "**as**".

Page 5, line 13, after "(1)(A)" insert "**, or a person for whom a fingerprint based criminal history background check is required under IC 31,**".

Page 5, line 26, after "office"" delete "," and insert "**or "county office of family and children",**".

Page 6, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 9. IC 31-9-2-38.5, AS AMENDED BY P.L.145-2006, SECTION 187, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 38.5. "Department", for purposes of IC 31-19, ~~IC 31-25~~, ~~IC 31-26~~, ~~IC 31-27~~, ~~IC 31-28~~, ~~IC 31-33~~, ~~IC 31-34~~, ~~IC 31-38~~, and **IC 31-25 through IC 31-40**, has the meaning set forth in IC 31-25-2-1."

Page 8, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 18. IC 31-19-11-1, AS AMENDED BY P.L.140-2006, SECTION 17, AS AMENDED BY P.L.173-2006, SECTION 17, AND AS AMENDED BY P.L.145-2006, SECTION 253, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Whenever the court has heard the evidence and finds that:

- (1) the adoption requested is in the best interest of the child;
- (2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;
- (3) the report of the investigation and recommendation under IC 31-19-8-5 has been filed;
- (4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father registry in accordance with IC 31-19-5;
- (5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;

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(6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:

(A) IC 31-19-6 indicating whether a record of a paternity determination; or

(B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;

has been filed in relation to the child;

(7) proper consent, if consent is necessary, to the adoption has been given;

(8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c) or (d); and

(9) the person, licensed child placing agency, or county office of family and children that has placed the child for adoption has provided the documents and other information required under IC 31-19-17 to the prospective adoptive parents;

the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the ~~department's~~ *state department of health's* affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health and safety of a child by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies described as follows:

(1) Murder (IC 35-42-1-1).

(2) Causing suicide (IC 35-42-1-2).

(3) Assisting suicide (IC 35-42-1-2.5).

(4) Voluntary manslaughter (IC 35-42-1-3).

(5) Reckless homicide (IC 35-42-1-5).

(6) Battery as a felony (IC 35-42-2-1).

**(7) Domestic battery (IC 35-42-2-1.3).**

~~(7)~~ **(8)** Aggravated battery (IC 35-42-2-1.5).

~~(8)~~ **(9)** Kidnapping (IC 35-42-3-2).

~~(9)~~ **(10)** Criminal confinement (IC 35-42-3-3).

~~(10)~~ **(11)** A felony sex offense under IC 35-42-4.

~~(11)~~ **(12)** Carjacking (IC 35-42-5-2).

~~(12)~~ **(13)** Arson (IC 35-43-1-1).

~~(13)~~ **(14)** Incest (IC 35-46-1-3).

~~(14)~~ **(15)** Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).

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~~(15)~~ **(16)** Child selling (IC 35-46-1-4(d)).

~~(16)~~ **(17)** A felony involving a weapon under IC 35-47 or IC 35-47.5.

~~(17)~~ **(18)** A felony relating to controlled substances under IC 35-48-4.

~~(18)~~ **(19)** An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.

~~(19)~~ **(20)** A felony that is substantially equivalent to a felony listed in subdivisions (1) through ~~(18)~~ **(19)** for which the conviction was entered in another state.

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), ~~(11)~~, (12), **(13)**, ~~(16)~~, ~~or~~ (17), or **(18)**, or its equivalent under subdivision ~~(19)~~, **(20)**, if the offense was not committed within the immediately preceding five (5) year period.

(d) A court may not grant an adoption if the petitioner is ~~an~~ a sex offender (as defined in ~~IC 5-2-12-4~~; IC 11-8-8-5).".

Page 8, line 8, delete "IC 31-25-2-20" and insert "IC 31-25-2-20.4".

Page 8, line 10, delete "20." and insert "**20.4**".

Page 9, line 42, strike "submit".

Page 11, line 4, delete "national".

Page 11, line 7, after "volunteer" delete "in" and insert "**to**".

Page 11, line 17, delete "national".

Page 11, line 41, delete "applicant" and insert "**applicant's**".

Page 12, line 10, delete "record information".

Page 13, line 12, delete "IC 31-27-4-13(a); or" and insert "**IC 31-27-4-13(a)**".

Page 13, line 25, strike "(a)(2)," and insert "**(a) or (b)**".

Page 13, line 27, after "conviction of" insert "**, or a determination of child abuse or neglect by,**".

Page 13, line 30, after "of" insert "**, or determination of child abuse or neglect by,**".

Page 14, line 11, delete "IC 31-25-2-20." and insert "**IC 31-25-2-20.4**".

Page 15, line 11, delete "IC 31-27-4-13(a); or" and insert "**IC 31-27-4-13(a)**".

Page 15, line 24, after "subsection" insert "**(a) or**".

Page 15, line 25, delete "A license" and insert "**a license**".

Page 15, line 25, delete "of" and insert "**of, or a determination of child abuse or neglect by,**".

Page 15, line 29, delete "conviction;" and insert "**conviction or determination;**".

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Page 15, line 30, after "of" insert ", **or determination of child abuse or neglect by,**".

Page 17, line 7, delete "national".

Page 17, line 14, delete "national".

Page 17, line 29, delete "national".

Page 18, line 11, delete "applicant" and insert "**applicant's**".

Page 18, line 22, delete "record information".

Page 18, line 39, after "applicant" delete ",."

Page 19, line 19, delete "adult" and insert "**individual**".

Page 19, line 25, delete "IC 31-27-4-13(a); or" and insert "**IC 31-27-4-13(a).**".

Page 19, line 29, delete "." and insert "**or to permit the individual to reside in the applicant's residence.**".

Page 19, between lines 37 and 38, begin a line block indented and insert:

**"(5) The nature and extent of unsupervised contact with children residing in the home."**

Page 19, line 38, strike "(a)(2)," and insert "**(a) or (b),**".

Page 19, line 40, after "of" insert ", **or a determination of child abuse or neglect by,**".

Page 20, line 3, after "of" insert ", **or determination of child abuse or neglect by,**".

Page 20, between lines 6 and 7, begin a new paragraph and insert:  
**"SECTION 2. IC 31-27-4-13, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) The department shall deny a license when an applicant fails to meet the requirements for a license. The department shall deny a license to an applicant who has been convicted of any of the following felonies:**

- (1) Murder (IC 35-42-1-1).**
- (2) Causing suicide (IC 35-42-1-2).**
- (3) Assisting suicide (IC 35-42-1-2.5).**
- (4) Voluntary manslaughter (IC 35-42-1-3).**
- (5) Reckless homicide (IC 35-42-1-5).**
- (6) Battery (IC 35-42-2-1).**
- (7) Domestic battery (IC 35-42-2-1.3).**
- ~~(7)~~ **(8) Aggravated battery (IC 35-42-2-1.5).**
- ~~(8)~~ **(9) Kidnapping (IC 35-42-3-2).**
- ~~(9)~~ **(10) Criminal confinement (IC 35-42-3-3).**
- ~~(10)~~ **(11) A felony sex offense under IC 35-42-4.**
- ~~(11)~~ **(12) Carjacking (IC 35-42-5-2).**
- ~~(12)~~ **(13) Arson (IC 35-43-1-1).**

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~~(13)~~ **(14)** Incest (IC 35-46-1-3).

~~(14)~~ **(15)** Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).

~~(15)~~ **(16)** Child selling (IC 35-46-1-4(d)).

~~(16)~~ **(17)** A felony involving a weapon under IC 35-47 or IC 35-47.5.

~~(17)~~ **(18)** A felony relating to controlled substances under IC 35-48-4.

~~(18)~~ **(19)** An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.

~~(19)~~ **(20)** A felony that is substantially equivalent to a felony listed in subdivisions (1) through ~~(18)~~ **(19)** for which the conviction was entered in another state.

The department may deny a license to an applicant who has been convicted of a felony that is not listed in this subsection.

(b) The department shall send written notice by certified mail that the application has been denied and give the reasons for the denial.

(c) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made not more than thirty (30) days after receiving the written notice under subsection (b).

(d) An administrative hearing shall be held not more than sixty (60) days after receiving a written request.

(e) An administrative hearing shall be held in accordance with IC 4-21.5-3.

(f) The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing."

Page 20, line 26, delete "IC 31-25-2-20." and insert **"IC 31-25-2-20.4."**

Page 21, line 18, delete "adult" and insert **"individual"**.

Page 21, line 23, delete "IC 31-27-4-13(a); or" and insert **"IC 31-27-4-13(a)."**

Page 21, line 27, delete "." and insert **"or to permit the individual to reside in the licensee's residence."**

Page 21, line 37, delete "A license" and insert **"a license"**.

Page 21, line 37, delete "of" and insert **"of, or a determination of child abuse or neglect by,"**

Page 21, line 38, delete ";" and insert **"or an individual residing in the residence of the licensee;"**.

Page 21, line 41, delete ";" and insert **"or that the individual no longer resides in the licensee's residence;"**.

Page 21, line 42, after "of" insert **", or determination of child**

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abuse or neglect by,".

Page 21, line 42, delete "employee or" and insert "**employee,**".

Page 22, line 1, delete "volunteer" and insert "**volunteer, or former household resident**".

Page 23, line 28, delete "national".

Page 23, line 42, delete "national".

Page 24, line 24, delete "applicant" and insert "**applicant's**".

Page 24, line 35, delete "record information".

Page 26, line 18, strike "(a)(2)," and insert "**(a) or (b),**".

Page 26, line 20, after "conviction of" insert ", **or a determination of child abuse or neglect by,**".

Page 26, line 23, after "of" insert ", **or determination of child abuse or neglect by,**".

Page 27, line 3, delete "IC 31-25-2-20." and insert "**IC 31-25-2-20.4.**".

Page 28, line 16, after "subsection" insert "**(a) or**".

Page 28, line 17, delete "A license" and insert "**a license**".

Page 28, line 17, delete "of" and insert "**of, or a determination of child abuse or neglect by,**".

Page 28, line 22, after "of" insert ", **or determination of child abuse or neglect by,**".

Page 30, delete lines 9 through 17, begin a new paragraph and insert:

**"(h) A criminal history background check required under subsection (d)(2) or (d)(3) must be completed on or before the date on which the subject of the check is employed or assigned as a volunteer. However, a fingerprint based criminal history background check as described in IC 31-9-2-22.5(1)(B) and required under subsection (d)(3) must be completed not later than the conclusion of the first ninety (90) days of employment in or assignment of a volunteer to a position described in subsection (d)(3). If a person described in this subsection has been the subject of a criminal history background check (as described in IC 31-9-2-22.5) that was conducted not more than one (1) year before the date the license application is submitted to the department, a new criminal history check of that person is not required.**

**(i) An applicant or a licensee may provisionally employ an individual or assign a volunteer for whom a criminal history background check is required under subsection (d)(3) during the period after the process of requesting fingerprint based criminal history background check information has been initiated by or on**

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behalf of the applicant or licensee but before the determination is obtained by or communicated to the applicant or licensee. If the determination is not received within ninety (90) days after the effective date of hire or volunteer assignment, the employee or volunteer relationship must be terminated or suspended until a determination is received. An employee or a volunteer whose determination has not yet been received may not have direct contact with a child who is or will be placed at a facility operated by the applicant or licensee unless the direct contact occurs only in the presence of a volunteer or an employee of the applicant or licensee who has been the subject of a completed and approved criminal history background check. In determining whether to provisionally hire or assign as a volunteer an individual under subsection (d)(3), the applicant or licensee shall consider the following:

- (1) The training time required by an employee or a volunteer.
- (2) The safety and security of the children under the supervision of the applicant or licensee.
- (3) The safety and security of the other staff and volunteers working under the supervision of the applicant or licensee.
- (4) The staffing concerns of the applicant or licensee.
- (5) Any other factor relating to the safety and security of the applicant's or licensee's operations."

Page 30, line 18, delete "(i)" and insert "(j)".

Page 30, line 25, delete "(j)" and insert "(k)".

Page 30, line 28, delete "record information".

Page 31, line 21, after "that the" insert "**applicant**".

Page 32, line 1, strike "(a)(2)," and insert "**(a) or (b),**".

Page 32, line 3, after "conviction of" insert ", **or a determination of child abuse or neglect by,**".

Page 32, line 6, after "of" insert ", **or determination of child abuse or neglect by,**".

Page 32, line 25, delete "IC 31-25-2-20." and insert "**IC 31-25-2-20.4.**".

Page 32, line 39, delete ",".

Page 33, line 38, after "subsection" insert "**(a) or**".

Page 33, line 39, delete "A license" and insert "**a license**".

Page 33, line 39, delete "of," and insert "**of, or a determination of child abuse or neglect by,**".

Page 34, line 1, delete "conviction;" and insert "**conviction or determination;**".

Page 34, line 2, after "of" insert ", **or determination of child abuse**".

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or neglect by,".

Page 34, between lines 5 and 6, begin a new paragraph and insert:  
 "SECTION 37. IC 31-32-1-4 IS ADDED TO THE INDIANA CODE  
 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 1, 2007]: **Sec. 4. (a) Any written notice of a hearing or other court  
 proceeding in a child in need of services case under IC 31-34 or a  
 delinquency case under IC 31-37 shall be given to:**

- (1) a party in the manner provided by Rule 5 of the Indiana  
 Rules of Trial Procedure; or**
- (2) an individual who is not a party by:**
  - (A) personal delivery to the individual; or**
  - (B) mail as provided in Rule 5(B)(2) of the Indiana Rules  
 of Trial Procedure.**

**(b) Notice by mail must be deposited in the United States mail  
 not less than five (5) calendar days (excluding Saturdays, Sundays,  
 and national legal holidays recognized by the federal government)  
 before the date of the scheduled hearing or proceeding.**

**(c) Written notice may be given by either:**

- (1) a copy of a court order or docket entry; or**
- (2) a letter addressed to the individual required to be notified;  
 that states the date, time, and purpose of the hearing.**

**(d) Written notice is not required if verbal notice of the date,  
 time, place, and purpose of the hearing is given by the court at an  
 earlier hearing or proceeding at which the individual to be notified  
 is present.**

**(e) Written notice is not required if:**

- (1) the hearing or proceeding is scheduled to be held at a time  
 within forty eight (48) hours (excluding Saturdays, Sundays,  
 and any day on which a legal holiday is observed for state  
 employees) after the court sets the time for the hearing or  
 proceeding; and**
- (2) the individual responsible for giving the notice under this  
 section:**
  - (A) provides verbal notice of the date, time, place, and  
 purpose of the hearing or proceeding directly to the person  
 required to be notified; and**
  - (B) verifies by affidavit or testimony at the hearing that  
 verbal notice was given as required under this subsection.**

**(f) Except as provided in subsection (d):**

- (1) the department is responsible for giving all notices of a  
 hearing or proceeding in a child in need of services case under  
 IC 31-34; and**

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**(2) the prosecuting attorney or the probation department of the juvenile court is responsible for giving all notices of a hearing or proceeding in a delinquency case under IC 31-37."**

Page 34, line 28, delete "index of" and insert "**index a**".

Page 36, line 36, delete "IC 31-25-2-20." and insert "**IC 31-25-2-20.4**".

Page 37, line 20, delete "worker" and insert "**caseworker**".

Page 37, line 28, delete "workers" and insert "**caseworkers**".

Page 39, line 38, delete "on" and insert "**on**:"

**(1)**".

Page 39, line 40, delete "neglect." and insert "**neglect; or**

**(2) facts presented to the court at a hearing in a child in need of services case commenced under IC 31-34 that are consistent with the facts and conclusions stated in the report, if the department approved the substantiated report after the court's determination."**

Page 41, line 23, delete "whether" and insert "**whether:**

**(1)**".

Page 41, line 23, after "is" insert "**properly**".

Page 41, line 24, delete "substantiated," and insert "**substantiated;**

**(2) child abuse or neglect occurred; or**

**(3) any person was a perpetrator of child abuse or neglect;".**

Page 41, line 24, beginning with "the determination" begin a new line blocked left.

Page 44, line 30, delete "(12)" and insert "**(10)**".

Page 45, line 17, strike "legal holidays," and insert "**any day on which a legal holiday is observed for state employees as provided in IC 1-1-9,**".

Page 45, between lines 23 and 24, begin a new line block indented and insert:

**"(3) Each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-34-4."**

Page 45, between lines 26 and 27, begin a new paragraph and insert:

**"(c) The court shall:**

**(1) provide a person who is required to be notified under subsection (a)(2) or (a)(3) an opportunity to be heard; and**

**(2) allow a person described in subdivision (1) to make recommendations to the court;**

**at the detention hearing."**

Page 46, between lines 1 and 2, begin a new paragraph and insert:

**"(d) The department shall notify each foster parent or other caretaker with whom the child has been temporarily placed under**

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**IC 31-34-2.5 of the detention hearing. The court shall:**

- (1) provide a person who is required to be notified under this subsection an opportunity to be heard; and**
- (2) allow a person described in subdivision (1) to make recommendations to the court;**

**at the detention hearing."**

Page 46, delete lines 15 through 17.

Page 46, line 18, delete "(e)" and insert "(d)".

Page 46, line 21, delete "(f)" and insert "(e)".

Page 46, line 25, delete "(g)" and insert "(f)".

Page 46, between lines 32 and 33, begin a new paragraph and insert:

**"(g) The department shall provide notice of the time, place, and purpose of the initial hearing and any additional initial hearing scheduled under this section to each foster parent or other caretaker with whom the child has been temporarily placed under IC 31-34-2.5, IC 31-34-4, or IC 31-34-5. The notice under this subsection may be combined with the notice of the detention hearing under IC 31-34-5. The court shall:**

**(1) provide a:**

- (A) person for whom a summons is required to be issued under subsection (b); and**
- (B) person who is required to be notified under this subsection;**

**an opportunity to be heard; and**

- (2) allow a person described in subdivision (1) to make recommendations to the court;**

**at the initial hearing.**

SECTION 45. IC 31-34-11-1, AS AMENDED BY P.L.146-2006, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Except as provided in subsection (b), unless the allegations of a petition have been admitted, the juvenile court shall complete a factfinding hearing not more than sixty (60) days after a petition alleging that a child is a child in need of services is filed in accordance with IC 31-34-9.

(b) The juvenile court may extend the time to complete a factfinding hearing, as described in subsection (a), for an additional sixty (60) days if all parties in the action consent to the additional time.

**(c) If the factfinding hearing is not held immediately after the initial hearing as provided under IC 31-34-10-9, the department shall provide notice of any factfinding hearing to each foster parent or other caretaker with whom the child has been placed for temporary care. The court shall provide a person who is required**

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to be notified under this subsection an opportunity to be heard at the factfinding hearing.

SECTION 46. IC 31-34-19-1.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.3. (a) The department shall provide notice of the date, time, place, and purpose of the dispositional hearing under this chapter to each:**

- (1) party or person for whom a summons is required to be issued under IC 31-34-10-2; and
- (2) foster parent or other caretaker with whom the child is placed for temporary care;

at the time the dispositional hearing is scheduled.

(b) The court shall:

- (1) provide a person required to be notified under subsection (a) an opportunity to be heard; and
- (2) allow a person described in subdivision (1) to make recommendations to the court;

at the dispositional hearing.

SECTION 47. IC 31-34-19-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2. (a) Any predispositional report may be admitted into evidence to the extent that the report contains evidence of probative value even if the report would otherwise be excluded.**

(b) If a report contains information that should not be released to the child or the child's parent, guardian, or custodian, a factual summary of the report may be admitted.

(c) The:

- (1) child;
- (2) child's parent, guardian, or custodian; and
- (3) person representing the interests of the state;

**and a foster parent or other caretaker who is entitled to notice of the dispositional hearing under section 1.3 of this chapter shall be given a fair opportunity to controvert any part of the report admitted into evidence."**

Page 47, line 12, delete "child," and insert "**child in person, or through an interview with, or written statement or report submitted by:**

- (A) a guardian ad litem or court appointed special advocate for the child;
- (B) a case manager; or
- (C) the person with whom the child is living and who has primary responsibility for the care and supervision of the

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**child;"**.

Page 47, line 12, beginning with "in" begin a new line block indented.

Page 47, line 25, after "(1)" insert **"require the department to"**.

Page 48, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 49. IC 31-34-22-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Before a case review under IC 31-34-21-2 or hearing under IC 31-34-21-7, the probation department or the ~~county office of family and children~~ **department** shall prepare a report on the progress made in implementing the dispositional decree, including the progress made in rehabilitating the child, preventing placement out-of-home, or reuniting the family.

(b) Before preparing the report required by subsection (a), the probation department or the ~~county office of family and children~~ **department** shall consult a foster parent of the child about the child's progress made while in the foster parent's care.

(c) If modification of the dispositional decree is recommended, the probation department or the ~~county office of family and children~~ **department** shall prepare a modification report containing the information required by IC 31-34-18 and request a formal court hearing.

SECTION 50. IC 31-34-22-2, AS AMENDED BY P.L.146-2006, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Except as provided in subsection (b), a report prepared by the state:

- (1) for the juvenile court's review of the court's dispositional decree; or
- (2) prepared for use at a periodic case review under IC 31-34-21-2 or hearing under IC 31-34-21-7;

shall be made available to the child, and the child's parent, foster parent, guardian, guardian ad litem, court appointed special advocate, ~~or custodian,~~ **or any other person who is entitled to receive notice of the periodic case review or permanency hearing under IC 31-34-21-4** within a reasonable time after the report's presentation to the court or before the hearing.

(b) If the court determines on the record that the report contains information that should not be released to ~~the child or the child's parent, foster parent, guardian, or custodian,~~ **any person entitled to receive a report under subsection (a),** the court is not required to make the report available to the person as required in subsection (a). However, the court shall provide a copy of the report to the following:

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- (1) Each attorney or guardian ad litem representing the child.
- (2) Each attorney representing the child's parent, guardian, or custodian.
- (3) Each court appointed special advocate.

(c) The court may also provide a factual summary of the report to the child or the child's parent, foster parent, guardian, or custodian.

(d) ~~In addition to the requirements of subsection (a), any report prepared by the state for the juvenile court's review shall also be made available to any court appointed special advocate within the same time period and in the same manner as required in the case of a parent under subsection (a). However, if under subsection (a) the court determines on the record that the report contains information that should not be released to the parent, the court shall still provide a copy of the report to any court appointed special advocate.~~

SECTION 51. IC 31-34-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Any report may be admitted into evidence to the extent that the report contains evidence of probative value even if the evidence would otherwise be excluded.

(b) If a report contains information that should not be released to the child or the child's parent, guardian, ~~or custodian, or any other person who is entitled to receive a report under section 2 of this chapter,~~ a factual summary of the report may be admitted.

(c) The:

- (1) child;
- (2) child's parent, guardian, or custodian; and
- (3) person representing the interests of the state;

**and any other person who is entitled to receive a report under section 2 of this chapter** shall be given a fair opportunity to controvert any part of the report admitted into evidence.

SECTION 52. IC 31-34-23-4, AS AMENDED BY P.L.129-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. If a hearing is required, IC 31-34-18 governs the preparation and use of a modification report. The report shall be prepared if the state or any person other than the child or the child's parent, guardian, guardian ad litem, court appointed special advocate, or custodian is requesting the modification. **Notice of any hearing under this chapter shall be given in accordance with IC 31-34-19-1.3."**

Page 52, line 38, delete "(2)each" and insert "**(2) each**".

Page 56, between lines 3 and 4, begin a new paragraph and insert: "SECTION 79. IC 31-37-6-3 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. **(a)** Notice of the time, place, and purpose of a detention hearing shall be given to:

- (1) the child; ~~and~~
- (2) the child's parent, guardian, or custodian if the person can be located; **and**
- (3) each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-37-5.**

**(b) The court shall:**

- (1) provide a person who is required to be notified under subsection (a)(2) or (a)(3) an opportunity to be heard; and**
- (2) allow a person described in subdivision (1) to make recommendations to the court;**

**at the detention hearing.**

SECTION 80. IC 31-37-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The juvenile court shall hold an initial hearing on each petition.

(b) The juvenile court shall set a time for the initial hearing. A summons shall be issued for the following:

- (1) The child.
- (2) The child's parent, guardian, custodian, or guardian ad litem.
- (3) Any other person necessary for the proceedings.

(c) A copy of the petition must accompany each summons. The clerk shall issue the summons under Rule 4 of the Indiana Rules of Trial Procedure.

**(d) The prosecuting attorney or the probation department of the juvenile court shall provide notice of the time, place, and purpose of the initial hearing scheduled or held under this section to each foster parent or other caretaker with whom the child has been placed for temporary care under IC 31-37-5 or IC 31-37-7. The court shall:**

- (1) provide a:**
  - (A) person for whom summons is required to be issued under subsection (b); and**
  - (B) person required to be notified under this subsection; an opportunity to be heard; and**
- (2) allow a person described in subdivision (1) to make recommendations to the court;**

**at the initial hearing.**

SECTION 81. IC 31-37-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** Unless the allegations of a petition have been admitted, the juvenile court shall hold a factfinding hearing.

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(b) If the factfinding hearing is not held immediately after the initial hearing as provided under IC 31-37-12-9, the prosecuting attorney or probation department of the juvenile court shall provide notice of any factfinding hearing to each foster parent or other caretaker with whom the child has been placed for temporary care. The court shall provide a person required to be notified under this subsection an opportunity to be heard at the factfinding hearing.

SECTION 82. IC 31-37-18-1.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.3. (a) The prosecuting attorney or probation department of the juvenile court shall provide notice of the date, time, place, and purpose of the dispositional hearing under this chapter to each:

- (1) party or person for whom a summons is required to be issued under IC 31-37-12-2; and
- (2) foster parent or other caretaker with whom the child is placed for temporary care;

at the time the dispositional hearing is scheduled.

(b) The court shall:

- (1) provide a person who is required to be notified under subsection (a) an opportunity to be heard; and
- (2) allow a person described in subdivision (1) to make recommendations to the court;

at the dispositional hearing.

SECTION 83. IC 31-37-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Any predispositional report may be admitted into evidence to the extent that the report contains evidence of probative value even if the report would otherwise be excluded.

(b) If a report contains information that should not be released to the child or the child's parent, guardian, or custodian, a factual summary of the report may be admitted.

(c) The:

- (1) child;
- (2) child's parent, guardian, or custodian; and
- (3) person representing the interests of the state;

and a foster parent or other caretaker who is entitled to notice of the dispositional hearing under section 1.3 of this chapter shall be given a fair opportunity to controvert any part of the report admitted into evidence.

SECTION 84. IC 31-37-20-4.5 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2007]: Sec. 4.5. (a) At least ten (10) days  
before a hearing under section 2 or 3 of this chapter, the probation  
department shall send notice of the hearing to each of the  
following:

- (1) The child's parent, guardian, or custodian.
  - (2) An attorney who has entered an appearance on behalf of  
the child's parent, guardian, or custodian.
  - (3) The child or an attorney who has entered an appearance  
on behalf of the child.
  - (4) A prospective adoptive parent named in a petition for  
adoption of the child filed under IC 31-19-2 if:
    - (A) each consent to adoption of the child that is required  
under IC 31-19-9-1 has been executed in the form and  
manner required by IC 31-19-9 and filed with the county  
office;
    - (B) the court having jurisdiction in the adoption case has  
determined under any applicable provision of IC 31-19-9  
that consent to adoption is not required from a parent,  
guardian, or custodian; or
    - (C) a petition to terminate the parent-child relationship  
between the child and any parent who has not executed a  
written consent to adoption under IC 31-19-9-2 has been  
filed under IC 31-35 and is pending.
  - (5) Any other person who:
    - (A) the probation department has knowledge is currently  
providing care for the child; and
    - (B) is not required to be licensed under IC 12-17.2 or  
IC 31-27 to provide care for the child.
  - (6) Any other suitable relative or person whom the probation  
department knows has had a significant or caretaking  
relationship to the child.
- (b) The court shall provide to a person described in subsection  
(a) an opportunity to be heard and to make any recommendations  
to the court in a hearing under section 2 or 3 of this chapter. The  
right to be heard and to make recommendations under this  
subsection includes:
- (1) the right of a person described in subsection (a) to submit  
a written statement to the court that, if served upon all parties  
to the delinquency proceeding and the persons described in  
subsection (a), may be made a part of the court record; and
  - (2) the right to present oral testimony to the court and

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cross-examine any of the witnesses at the hearing.

(c) This section does not exempt the probation department from sending a notice of the review to each party to the delinquency proceeding.

(d) The court shall continue the hearing if, at the time set for the hearing, the probation department has not provided the court with a signed verification that any person required to be notified under this section has been notified in the manner stated in the verification, unless the person appears for the hearing.

SECTION 85. IC 31-37-21-2, AS AMENDED BY P.L.146-2006, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Except as provided by subsection (b), a report prepared by the state:

- (1) for the juvenile court's review of the court's dispositional decree; or
- (2) for use at a periodic case review or hearing under IC 31-37-20-2 or IC 31-37-20-3;

shall be made available to the child, and the child's parent, foster parent, guardian, guardian ad litem, custodian, ~~or~~ court appointed special advocate, **or any other person who is entitled to receive notice under IC 31-37-20-4.5** within a reasonable time after the report's presentation to the court or before the hearing.

(b) If the court determines on the record that the report contains information that should not be released to ~~the child or the child's parent, foster parent, guardian, or custodian,~~ **any person who is entitled to receive a report under subsection (a),** the court is not required to make the report available to the person as required under subsection (a). However, the court shall provide a copy of the report to the following:

- (1) Each attorney or a guardian ad litem representing the child.
- (2) Each attorney representing the child's parent, guardian, or custodian.
- (3) A court appointed special advocate.

(c) The court may also provide a factual summary of the report to the child or the child's parent, foster parent, guardian, or custodian.

(d) ~~In addition to the requirements of subsection (a), any report prepared by the state for the juvenile court's review shall also be made available to any court appointed special advocate within the same time period and in the same manner as required in the case of a parent under subsection (a). However, if under subsection (a) the court determines on the record that the report contains information that should not be released to the parent, the court shall still provide a copy of the report~~

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to any court appointed special advocate.

SECTION 86. IC 31-37-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Any report may be admitted into evidence to the extent that the report contains evidence of probative value even if the evidence would otherwise be excluded.

(b) If a report contains information that should not be released to the child or the child's parent, guardian, ~~or~~ custodian, **or any other person who is entitled to receive a report under section 2 of this chapter**, a factual summary of the report may be admitted.

(c) The:

- (1) child;
- (2) child's parent, guardian, or custodian; and
- (3) person representing the interests of the state;

**and any other person who is entitled to receive a report under section 2 of this chapter** shall be given a fair opportunity to controvert any part of the report admitted into evidence.

SECTION 87. IC 31-37-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. If a hearing is required, IC 31-37-17 governs the preparation and use of a modification report. The report shall be prepared if the state or any person other than the child or the child's parent, guardian, guardian ad litem, or custodian is requesting the modification. **Notice of any hearing under this chapter shall be given in accordance with IC 31-37-18-1.3."**

Page 56, line 5, after "IC 31-9-2-128;" insert "IC 31-33-8-14;"

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 328 as reprinted February 21, 2007.)

SUMMERS, Chair

Committee Vote: yeas 9, nays 0.

# HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 328 be amended to read as follows:

Page 8, delete lines 8 through 19.

Page 8, delete lines 25 through 37.

Page 9, delete lines 3 through 15.

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Page 12, line 9, delete "The department may, by".

Page 12, delete lines 10 through 14.

Page 12, between lines 18 and 19, begin a new paragraph and insert:

**"(c) The department shall appoint the citizen review panels in the following manner:**

**(1) One (1) panel must be a community child protection team established in a county under IC 31-33-3-1, selected by the director of the department with the consent of the team.**

**(2) One (1) panel must be either:**

**(A) the statewide child fatality review committee established under IC 31-33-25-6; or**

**(B) a local child fatality review team established under IC 31-33-24-6;**

**selected by the director of the department with the consent of the committee or team.**

**(3) One (1) panel must be a foster care advisory panel consisting of at least five (5) and not more than eleven (11) members, selected to the extent feasible from the membership of any foster care advisory group previously established or recognized by the department. If the panel consists of seven (7) or fewer members, the panel must include at least one (1) foster parent licensed by the department through a county office and one (1) foster parent licensed by the department through a child placing agency licensed under IC 31-27-6. If the panel consists of more than seven (7) members, the panel must include two (2) foster parents licensed by the department through a county office and two (2) foster parents licensed by the department through a child placing agency licensed under IC 31-27-6. Additional members of the panel must include one (1) or more individuals who are employed by a child placing agency licensed under IC 31-27-6 and who provide services to foster families and children placed by the department in out-of-home placements, and may include other representatives of child welfare service providers or persons who provide training to current or prospective foster parents. All members of this panel must be individuals who are not employees of the department.**

**(4) The membership of any additional citizen review panels established under this section shall be determined by the director of the department, consistent with the guidelines for panel membership stated in subsection (b) and the purposes and functions of the panels as described in this section.**

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(5) Each citizen review panel shall be appointed for a term of three (3) years beginning July 1, 2007. Upon expiration of the term of the panel described in subdivision (1), the director of the department shall select a community child protection team established in a different county for the succeeding term. Upon expiration of the term of the panel described in subdivision (2), the director of the department shall select a different fatality review team, or committee, if available, for the succeeding term. Panels appointed under subdivision (3) or (4) may be reappointed for successive terms, in the discretion of the director of the department. The director may appoint individuals as needed to fill vacancies that occur during the term of any panel appointed under subdivision (3) or (4)."

Page 12, line 19, delete "(c)" and insert "(d)".

Page 12, line 26, delete "(d)" and insert "(e)".

Page 12, line 31, delete "(e)" and insert "(f)".

Page 12, line 33, delete "(d)," and insert "(e),".

Page 12, line 38, delete "(f)" and insert "(g)".

Page 13, line 1, delete "(g)" and insert "(h)".

Page 13, line 10, delete "(h)" and insert "(i)".

Page 13, line 10, delete "(g)," and insert "(h),".

Page 13, line 13, delete "(i)" and insert "(j)".

Page 53, line 2, delete "before a detention hearing" and insert **"within five (5) days after the detention hearing, excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees as provided in IC 1-1-9. The initial hearing may be held at the same time as the detention hearing if all necessary parties are available and consent."**

Page 53, delete line 3.

Page 53, line 22, delete "before the detention hearing is held for the child." and insert **"within five (5) days after the detention hearing, excluding Saturdays, Sundays, and any day on which a legal holiday is observed for state employees as provided in IC 1-1-9. The initial hearing may be held at the same time as the detention hearing if all necessary parties are available and consent."**

Page 53, delete lines 35 through 42.

Page 54, delete lines 1 through 36.

Page 59, delete lines 17 through 42.

Delete pages 60 through 66.

Page 67, delete lines 1 through 14.

Page 72, line 1, delete "IC 31-34-24-5;".

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Page 72, line 2, delete "IC 31-34-24-17; IC 31-37-24;".  
Re-number all SECTIONS consecutively.

(Reference is to ESB 328 as printed April 6, 2007.)

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